

IN SENATE OF THE UNITED STATES.

---

DECEMBER 30, 1847.

Submitted, and ordered to be printed.

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Mr. CORWIN made the following

**REPORT:**

[To accompany bill S. No. 44.]

*The Committee on Public Lands, to whom was referred the memorial of Cadwallader Wallace, praying compensation for certain Virginia military bounty land warrants, the lands appropriated by said warrants having been sold by the United States, report:*

That they are fully satisfied of the justice of the claim set up by the petitioner. For the grounds of the claim, they refer to the reports made to the last Congress. They also refer to the documents accompanying these reports, and an exposition of the facts and principles involved in the claim presented with the memorial.

They also report a bill.

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IN THE SENATE OF THE UNITED STATES.—August 10, 1846.

Mr. MOREHEAD made the following report:

*The Committee on Public Lands, to whom was referred the memorial of Cadwallader Wallace, praying compensation for certain Virginia military bounty land warrants, the lands appropriated by which have been sold by the United States, report:*

That they refer to the subjoined report from the Committee on Public Lands of the House of Representatives, at the 1st session of the 26th Congress, and the documents accompanying it; and they refer, also, to the papers accompanying the memorial, as containing a satisfactory exposition of the grounds of the claim; and the committee will not attempt to add any thing to the views therein expressed. They also report a bill.

MAY 25, 1840.

*The Committee on the Public Lands, to whom was referred the petition of Cadwallader Wallace, praying compensation for lands lying within the Virginia military reservation, which have been regularly appropriated by virtue of Virginia military land warrants, and which have been sold and conveyed by the government of the United States, report:*

That they have carefully considered the claim of said Wallace, and find that the land covered by said claim is situate within the district of country in Ohio reserved by the State of Virginia for the satisfaction of revolutionary bounties due to her citizens when she ceded the northwestern territory to the United States.

It will appear, by the paper accompanied herewith, (marked A,) that the quantity of land covered by this claim is forty-one thousand and eighty-two acres; that the whole of this land has been sold by the United States, and patented to the purchasers, and, the committee are informed, is settled on by the present claimants under the government, and much of it highly improved. The committee are satisfied that the lands were sold by the United States, under a belief that they were not comprehended within the Virginia reservation; they are also well satisfied that in this they were mistaken. The question of the boundary of the Virginia reservation in Ohio the committee consider as conclusively settled by the Supreme Court of the United States, in the case of *Doddrige vs. Thompson* and others, 9th Wheaton's Reports, 477. It will be seen, by the letter of the Commissioner of the General Land Office, accompanying this report, that the lands of the claimant lie within the Virginia reservation in Ohio, according to the boundary established by the Supreme Court in the case just cited. The right of the claimant being thus established, it remained for the committee only to consider whether the lands sold and conveyed by the government should be left to be wrested from the purchasers by legal process, or the claimant, under the revolutionary warrants, be compensated in money, on condition of its releasing all claim to the land in question; and the committee did not hesitate to adopt the latter alternative. In fixing the amount of compensation, the committee have taken, as the true principle to guide them, the amount received by the government for the lands; which, according to an estimate made by the Commissioner of the General Land Office, accompanying this report, (marked B,) amounted to the sum of \$103,332 56, for which amount, without interest, the committee report a bill.

For a full development of the grounds on which the claim rests, the committee refer to an argument of S. F. Vinton, esq., (marked C,) formerly a member of Congress from Ohio, in all the conclusions of which the committee concur. All of which is respectfully submitted.

GENERAL LAND OFFICE, *April 30, 1840.*

SIR: In compliance with your request, as chairman of the Committee on the Public Lands, I herewith transmit you a statement showing the amount of money received by the government for lands sold between the lines of Ludlow and Roberts, south of the Greenville treaty line, now claimed by Cadwallader Wallace under a late entry and survey in his name, founded on sundry Virginia military warrants, as lands lying within the Virginia military reservation.

I regret that this information has been so long delayed; but this was unavoidable, as a great number of sections and quarter sections were obliquely cut into small tracts; thus rendering it absolutely necessary that numerous calculations should be made, both geometrical and arithmetical, in order to arrive at the results now submitted. And although great care has been taken, yet the result can only be regarded as the nearest approximation to truth which could be obtained from the means possessed by this office.

I have the honor to be, very respectfully, your obedient servant,  
JAS. WHITCOMB,  
*Commissioner.*

Hon. THOMAS CORWIN.

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A.

GENERAL LAND OFFICE, *March 12, 1840.*

SIR: Your communication of the 28th ultimo, enclosing a memorial to Congress, and other documents relating to the claim of Cadwallader Wallace to certain lands lately located in the Virginia military reservation, between Robert's and Ludlow's lines, has been duly received; in which you request answers to the following interrogatories, to wit:

1. Have the lands specified in the papers been sold by the government of the United States, as lands not comprehended within the Virginia reservation in Ohio.

2. Are the lands in question within the Virginia reservation in Ohio, according to the line between that tract and the lands of the United States, as established by the Supreme Court in the case in which General McArthur's claim was settled, some ten years ago?

3. What is the quantity and value of the land comprehended in the claim of the petition?

Answer to the 1st interrogatory. The lands specified in the papers to which this interrogatory refers have been sold by the government of the United States, as lands not comprehended within the Virginia military reservation in Ohio, being regulated by Ludlow's line, run under the direction of the surveyor general of the public lands, up to which line the public lands claimed by the United States were surveyed and sold.

Answer to the 2d interrogatory. According to the principles laid down and established by the Supreme Court of the United

States, under which Gen. McArthur's claim to lands founded on Virginia military warrants west of Ludlow's line was settled, the lands referred to in this interrogatory, claimed by Cadwallader Wallace, founded on Virginia military warrants, are within the said Virginia military reservation, being wholly east of Robert's line, as established by the Supreme Court in the case above referred to, and west of Ludlow's line, and are, to all intents and purposes, in the same situation and condition as those lands above mentioned of General McArthur, with the exception of certain acts of Congress prohibiting locations and surveys west of Ludlow's line for the time being.

Answer to 3d interrogatory. The quantity of land claimed by the petitioner Wallace, according to a survey lately made and returned to this office, is 41,082 $\frac{5}{8}$  acres; which, together with 60 acres claimed by Joseph S. Watkins, and contained in the same survey, embraces the whole tract of said reservation, between the said lines of Ludlow and Roberts, which lies south of the Greenville treaty line, north of which last-mentioned line, there has never been any conflicting claims between the United States or those claiming under them, and those claiming under locations made on Virginia military warrants; Robert's line being regarded as the true dividing line between the lands of the United States and the Virginia military reservation, up to which, each party have made their respective surveys, agreeably to said decision of the Supreme Court, and the act of Congress recognizing the correctness of the same, and permanently establishing said line north, as aforesaid. The quantity contained in this survey, amounting in the whole, to 41,142 $\frac{5}{8}$  acres, is considered the true quantity in dispute between these lines, as before mentioned.

It may be proper here to remark, that I have lately received several other surveys, still west of Roberts's line, claimed to be within the clearly defined limits of said reservation, according to a line lately run by the principal surveyor, from the sources of the two rivers, as lately found and ascertained by him, to which he has certified as lying east of a direct line drawn from the source of the Little Miami, to the source of the Scioto river, containing, in the whole, the quantity of 11,921 acres.

However, I should deem it my duty to refuse to carry these surveys into grant, as well as those made between the said lines of Ludlow and Roberts, notwithstanding the said decision of the Supreme Court, and the action of Congress had thereon, establishing Roberts's line, as locations and surveys west of Ludlow's line have been prohibited by several acts of Congress, for the time being, at least, which appear to be still in force.

In regard to the value of those lands, I am unable to give any satisfactory information; common report, however, represents them as good lands, and some of them of the best quality. The mode adopted in regard to this question, in the cases of McArthur and others, was, by the appointment of commissioners to view and appraise the lands at their true value, exclusive of improvements, and to report the same to Congress, which was accordingly done.



For further particulars in regard to this question, and the question relating to the establishment of Roberts's line, and the history and facts connected with the running of Ludlow's line, I respectfully refer you to the report of Mr. Vinton, from the Committee on Public Lands, to which this subject had been referred in 1825, and to the documents connected therewith and therein referred to, and to the legal opinion of the same gentleman, lately addressed to Mr. Wallace, which I find among the other documents on this subject lately received from you; all of which I have the honor herewith to return. See Reports of Committees, vol. 12, No. 145, 1825; see also the opinion and decision of the Supreme Court of the United States, in the case of *Doddridge's Lessee vs. Thompson and Wright*, 9th Wheaton, 469; 5th Land Reports, 645.

I also herewith forward you a plat, on a large scale, lately made by the principal surveyor of the Virginia military reservation, which accompanied the late surveys above mentioned. This plat exhibits the relative position of each survey, as well as the several lines before mentioned, with as much accuracy as any that could be prepared at this office, which I hope will be found sufficiently satisfactory, with the following additional explanations, to wit:

1. The first line on the east represents Ludlow's line.
2. The second line (west of this) represents Roberts's line.
3. The third (still west of Roberts's) represents Anderson's line, lately run.

This plat also represents the Virginia military surveys north of the Greenville treaty line, west of Ludlow's line, extended to the Scioto, up to Roberts's line, which forms their western boundary, according to an act of Congress on this subject, approved the 11th day of April, 1818.

It also represents the surveys and the several quantities of land in each, lying south of the Greenville treaty line, and between the said lines of Ludlow and Roberts, which were satisfied by Congress as Virginia military claims, under the decision before mentioned.

Very respectfully, I have the honor to be your obedient servant,  
JAS. WHITCOMB, *Commissioner*.

Hon. THOMAS CORWIN,  
*Chairman of Committee on Public Lands.*

*Statement of the lands claimed by Cadwallader Wallace, situated between the two lines run by Ludlow and Roberts, as the western boundary of the Virginia military reservation south of the Greenville treaty line, in Ohio; showing the sum for which sold, and the sum actually received into the treasury of the United States; the cut sections being estimated according to the best information in the General Land Office.*

Name of purchaser.	Date of last payment.	Description of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. States.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.
Richard Cramer.....	Sept. 27, 1832	Fractional .....	30	7	8	\$276 00	\$198 40	\$276 00	\$198 40
John Montgomery.....	Jan. 26, 1825	Northeast .....	36	7	8	325 72	245 53	269 06	202 81
Andrew Harvey.....	March 18, 1825	Southeast .....	36	7	8	325 68	246 00	66 32	50 09
Daniel Jones.....	June 24, 1822	Fractional .....	31	7	9	1,082 00	777 69	881 52	633 59
Thomas Chenoworth.....	Jan. 24, 1812	Fractional .....	32	7	9	642 08	526 51	642 08	526 51
John Judy, sr.....	Dec. 13, 1813	Fractional .....	33	7	9	187 40	172 31	187 40	172 31
W. Ruffin.....	Aug. 9, 1810	Northeast .....	2	6	9	320 60	352 78	177 80	195 66
Richard James.....	Dec. 5, 1811	Southeast .....	2	6	9	320 60	262 89	30 24	24 79
Mary Vance.....	Sept. 22, 1821	Northeast .....	3	6	9	319 00	256 45	319 00	256 45
John Vance.....	Dec. 13, 1813	Southeast .....	3	6	9	319 00	293 47	319 00	293 47

John Osborn .....	Aug. 17, 1821	Northwest $\frac{1}{4}$ .....	3	6	9	319 00	277 86	127 04	85 57
Absalom Thomas .....	Aug. 5, 1812	Southwest $\frac{1}{4}$ .....	3	6	9	319 00	261 68	319 00	261 68
Coartlin King .....	Nov. 6, 1819	Fractional .....	4	e	9	980 00	939 80	980 00	939 80
Lewis Davis .....	Oct. 26, 1812	Fractional .....	5	6	9	513 60	449 60	81 90	71 69
James Wright .....	March 28, 1810	Northeast $\frac{1}{4}$ .....	10	6	9	320 00	315 75	101 52	100 17
Philip Funks .....	Sept. 28, 1822	Southeast $\frac{1}{4}$ .....	10	6	9	320 00	231 12		
Benjamin C. Hathaway .....	Aug. 8, 1831	Northeast $\frac{1}{4}$ .....	11	6	9	343 65	343 65	301 57	343 65
James Haney .....	June 26, 1827	Southeast $\frac{1}{4}$ .....	11	6	9	632 00	454 25	564 84	469 33
Chambers Dynes .....	Nov. 27, 1825	Northwest $\frac{1}{4}$ .....	11	6	9	197 50	197 50	44 51	44 51
Ezekiel Rice .....	Dec. 1, 1823	Southwest .....	*11	6	9				
David Hanna .....	Sept. 24, 1813	Fractional .....	12	6	9	1,236 00	1,354 19	774 30	848 34
Joseph Smith .....	May, 1814	Northeast $\frac{1}{4}$ .....	18	6	9	317 60	279 00	38 08	33 70
Wails Aldrich .....	Aug. 8, 1821	Southeast $\frac{1}{4}$ .....	18	6	9	317 60	314 11		
William Taylor .....	May, 1809	Fractional .....	7	6	10	846 00	764 48	162 64	146 99
Gano & McCord .....	Aug. 8, 1831	Lot 1 .....	8	6	10	124 69	124 69	124 69	124 69
Gano & McCord .....	Aug. 8, 1831	Lots 2 and 3 .....	8	6	10	287 71	287 71	83 76	83 76
Robert L. Jack .....	Dec. 11, 1817	Northeast $\frac{1}{4}$ .....	13	6	10	311 00	309 80	311 00	309 80
Andrew Hodge .....	June 19, 1814	Southeast $\frac{1}{4}$ .....	13	6	10	310 60	324 70	198 78	207 86
George Jones .....	Aug. 27, 1821	Northwest $\frac{1}{4}$ .....	13	6	10	310 60	223 25	25 60	18 40
James Smith .....	Dec. 20, 1815	Northeast $\frac{1}{4}$ .....	14	6	10	335 60	330 23	335 60	330 23
William Curl .....	Nov. 19, 1818	Northwest $\frac{1}{4}$ .....	14	6	10	335 60	335 27	335 60	335 27
James Pearce .....	Dec. 20, 1809	Southeast $\frac{1}{4}$ .....	14	6	10	335 60	369 60	321 10	359 66
Joseph Runyon .....	Feb. 2, 1818	Southwest $\frac{1}{4}$ .....	14	6	10	335 60	330 91	173 46	170 20
William Taylor .....	March 8, 1814	Fractional .....	9 & 15	6	10	1,109 74	1,174 11	1,109 74	1,174 11
			†16						
John H. Cartnell .....	Aug. 8, 1831	Fractional .....	17	6	10	118 95	118 95	118 95	118 95
Jacob Ellsworth .....	Aug. 17, 1815	Northeast $\frac{1}{4}$ .....	20	6	10	344 00	341 80	91 22	90 63
George Dawson .....	Sept. 9, 1815	Northeast $\frac{1}{4}$ .....	21	6	10	318 00	371 35	318 00	371 35
George Stewart .....	Nov. 5, 1813	Southeast $\frac{1}{4}$ .....	21	6	10	318 00	260 75	145 70	119 47
Nathaniel Cartnell .....	Dec. 11, 1815	Northwest $\frac{1}{4}$ .....	21	6	10	318 00	332 31	1 86	1 90
Jonathan Hunter .....	April 25, 1811	Section .....	22	6	10	1,273 60	1,342 97	1,082 98	1,141 96
Henry Vanmeter .....	April 14, 1814	Northeast $\frac{1}{4}$ .....	23	6	10	319 52	300 35	319 52	300 35
N. & E. Morris .....	July 3, 1829	Southeast $\frac{1}{4}$ .....	23	6	10	319 52	247 50	319 52	247 50
Jacob Vanmeter .....	July 3, 1829	Southwest $\frac{1}{4}$ .....	23	6	10	319 52	229 66	319 52	159 76
Jacob Vanmeter .....	July 3, 1829	Northwest $\frac{1}{4}$ .....	23	6	10	319 52	229 66	319 52	159 76
Thomas & William Cartmill .....	April 19, 1817	Fractional .....	24	6	10	969 60	1,080 43	213 16	237 90
Gano & McCord .....	Aug. 8, 1831	East $\frac{1}{2}$ northeast $\frac{1}{4}$ .....	29	6	10	250 48	250 48	250 48	250 48
Gano & McCord .....	Aug. 8, 1831	West $\frac{1}{2}$ northeast $\frac{1}{4}$ .....	29	6	10	190 84	190 84	75 04	75 04
Cartmill & Vanmeter .....	July 3, 1829	Southeast $\frac{1}{4}$ .....	29	6	10	636 00	457 13	162 08	116 49
Cartmill & Vanmeter .....		Northwest $\frac{1}{4}$ .....	29	6	10				

\* Not ent.

† Vacant.

Name of purchaser.	Date of last payment.	Description of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. States.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.
John Reynolds.....	Sept. 27, 1822	Section.....	30	6	10	\$1,284 00	\$937 40	\$889 48	\$649 36
Vance & Vanmeter.....	July 3, 1829	Northeast $\frac{1}{4}$ .....	36	6	10	320 00	230 00		
Donie Baker.....	March 31, 1829	South $\frac{1}{4}$ .....	25	6	11	652 40	659 80	316 92	320 48
Donie Baker.....	July 4, 1831	Northwest $\frac{1}{4}$ .....	25	6	11	204 00	204 00	133 57	133 57
William Paul.....	October 8, 1819	Fractional.....	26	6	11	2,501 28	2,444 96	92 08	90 98
Daniel Jones.....	March 30, 1811	Fractional.....	28	6	11	417 92	507 57	417 92	507 57
Sol'n Vanse.....	Dec. 28, 1815	Fractional.....	29	6	11	43 20	43 76	43 20	43 76
James Robinson.....	Dec. 13, 1811	Northeast $\frac{1}{4}$ .....	31	6	11	318 54	353 75	193 36	214 73
Abijah Ward.....	June 26, 1811	Southeast $\frac{1}{4}$ .....	31	6	11	318 54	346 88	37 22	40 31
Samuel Colver.....	July 4, 1815	Northeast $\frac{1}{4}$ .....	32	6	11	315 44	380 09	255 68	308 08
Richard Ward.....	July 19, 1817	Northwest $\frac{1}{4}$ .....	32	6	11	315 48	315 48	157 76	157 76
Justice Jones.....	Jan. 4, 1812	Southeast $\frac{1}{4}$ .....	32	6	11	315 48	258 69	315 48	258 69
James Reed.....	Jan. 2, 1816	Southwest $\frac{1}{4}$ .....	32	6	11	315 48	315 48	12 28	12 28
Jacob Minturn.....	April 7, 1817	Northeast $\frac{1}{4}$ .....	33	6	11	320 00	317 80	34 74	34 49
James Fulton.....	July 3, 1829	Southeast $\frac{1}{4}$ .....	33	6	11	320 00	230 00	89 22	64 12
John Owing.....	April 2, 1811	Southwest $\frac{1}{4}$ .....	33	6	11	320 00	335 17	320 00	335 17

Copes & Hays.....	March 31, 1825	Northwest $\frac{1}{4}$ .....	33	6	11	320 00	241 81	320 00	241 81
Thomas Sayers.....	June 26, 1810	Northeast $\frac{1}{4}$ .....	34	6	11	318 00	317 75	318 00	317 75
David Oppy.....	June 8, 1815	Northwest $\frac{1}{4}$ .....	34	6	11	318 00	325 64	318 00	325 64
Justice Jones.....	Aug. 12, 1811	Southeast $\frac{1}{4}$ .....	34	6	11	318 00	378 71	318 00	378 71
John Miller.....	Sept. 26, 1822	Southwest $\frac{1}{4}$ .....	34	6	11	318 00	229 67	318 00	159 00
Solomon Vahse.....	Jan. 10, 1811	Northeast $\frac{1}{4}$ .....	35	6	11	290 88	290 66	290 88	290 66
Solomon Vanse.....	Dec. 28, 1815	Southeast $\frac{1}{4}$ .....	35	6	11	290 88	416 60	290 88	416 60
Josiah Reynolds.....	Jan. 29, 1811	West $\frac{1}{2}$ .....	35	6	11	581 76	565 63	581 76	565 63
Solomon Vanse.....	Jan. 9, 1811	Fractional.....	36	6	11	722 40	711 98	722 40	711 98
George Glascock.....	Dec. 29, 1823	Northeast $\frac{1}{4}$ .....	3	5	11	326 44	289 70	120 74	107 15
Hamilton Stephens.....	April 30, 1817	Southeast $\frac{1}{4}$ .....	3	5	11	326 44	340 75	5 48	5 72
James Walker.....	March 18, 1825	Northeast $\frac{1}{4}$ .....	4	5	11	324 20	268 22	324 20	268 22
George Glascock.....	Dec. 29, 1823	Southeast $\frac{1}{4}$ .....	4	5	11	324 20	297 72	297 18	272 90
Thomas S. Hill.....	May 1, 1827	Northwest $\frac{1}{4}$ .....	4	5	11	324 20	232 98	103 06	74 06
Thomas S. Hill.....	May 1, 1827	Southwest $\frac{1}{4}$ .....	4	5	11	324 20	232 98		
Jonathan Tullis.....	June 8, 1815	Northeast $\frac{1}{4}$ .....	5	5	11	325 44	266 86	325 44	266 86
John Pearce.....	May 31, 1815	Southeast $\frac{1}{4}$ .....	5	5	11	325 44	268 09	325 44	268 09
Matthew Bracken.....	June 8, 1831	Northwest $\frac{1}{4}$ .....	5	5	11	325 44	276 36	325 44	276 36
William & R. George.....	May 20, 1816	Southwest $\frac{1}{4}$ .....	5	5	11	325 44	300 59	300 30	277 31
McCord & Corey.....	Sept. 30, 1822	East $\frac{1}{2}$ .....	6	5	11	650 00	530 16	650 00	530 16
John Reynolds & Co.....	March 14, 1817	Northwest $\frac{1}{4}$ .....	6	5	11	325 04	324 18	325 04	324 18
David Byers.....	Dec. 1, 1817	Southwest $\frac{1}{4}$ .....	6	5	11	325 00	405 82	325 00	405 82
Samuel McCord.....	June 7, 1824	East $\frac{1}{2}$ northeast $\frac{1}{4}$ .....	11	5	11	100 05	100 05	100 05	100 05
Samuel Long.....	Dec. 29, 1814	Southeast $\frac{1}{4}$ .....	11	5	11	640 32	531 35	640 32	531 35
John Reynolds.....	Nov. 10, 1818	Northeast $\frac{1}{4}$ .....	12	5	11	319 16	298 43	319 16	298 43
Jos. Reynolds.....	Feb. 9, 1816	Northwest $\frac{1}{4}$ .....	12	5	11	319 12	316 91	318 92	316 52
Elbert & Arney.....	Feb. 13, 1815	Southeast $\frac{1}{4}$ .....	12	5	11	319 16	310 79	270 66	263 56
James Daniel.....	Aug. 6, 1816	Fractional.....	31	6	12	338 40	405 39	338 40	405 39
Daniel Gano.....	Aug. 8, 1831	Fractional.....	32	6	12	20 58	20 58	20 58	20 58
D. K. Este.....	Feb. 12, 1817	Northeast $\frac{1}{4}$ .....	1	5	12	322 00	320 57	322 00	320 57
D. K. Este.....	Jan. 24, 1818	Southeast $\frac{1}{4}$ .....	1	5	12	318 00	315 39	318 00	315 39
Thomas Davis.....	Jan. 11, 1813	Northwest $\frac{1}{4}$ .....	1	5	12	316 06	278 38	316 06	278 38
Thomas Gwynne.....	June 13, 1816	Southwest $\frac{1}{4}$ .....	1	5	12	314 00	225 69	314 00	225 69
Jos. Reynolds.....	April 9, 1816	Fractional.....	2	5	12	1,220 00	1,366 00	1,220 00	1,366 00
E. L. Morgan.....	July 13, 1821	Fractional.....	3	5	12	831 88	625 30	831 88	415 94
John Taylor.....	March 5, 1816	Fractional.....	4 & 5	5	12	400 52	399 67	400 52	399 67
J. & I. Reynolds.....	May 3, 1819	East $\frac{1}{2}$ .....	7	5	12	638 20	634 31	638 20	319 10
St. Leger Neale.....	Nov. 5, 1811	Northwest $\frac{1}{4}$ .....	7	5	12	326 00	362 13	326 00	362 13
John Buchanan.....	March 31, 1825	Southwest $\frac{1}{4}$ .....	7	5	12	320 00	241 81	238 28	180 05
J. & I. Reynolds.....	Dec. 19, 1817	Northeast $\frac{1}{4}$ .....	8	5	12	652 00	659 56	652 00	659 56
John Taylor.....	Oct. 19, 1818	Northwest $\frac{1}{4}$ .....	8	5	12	652 00	651 75	652 00	651 75



## B—Continued.

Name of purchaser.	Date of last payment.	Description of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. States.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received being inclusive of interest, and exclusive of discount allowed.
J. & J. S. Reynolds.....	Dec. 19, 1817	Southeast $\frac{1}{4}$ .....	8	5	12	\$652 00	\$659 56	\$652 00	\$659 56
John & Isaac Reynolds.....	July, 1831	Southwest $\frac{1}{4}$ .....	8	5	12	203 75	203 75	203 75	203 75
Matthew Stewart.....	March 25, 1816	Northeast $\frac{1}{4}$ .....	9	5	12	338 20	337 59	338 20	337 59
David Osborne.....	April 8, 1818	Northwest $\frac{1}{4}$ .....	9	5	12	332 16	335 78	332 16	335 78
David Osborne.....	June 5, 1810	Southeast $\frac{1}{4}$ .....	9	5	12	332 04	340 14	332 04	340 14
David Osborne.....	Feb. 5, 1810	Southwest $\frac{1}{4}$ .....	9	5	12	332 04	376 70	332 04	376 70
Mallery & Taylor.....	July 19, 1810	East $\frac{1}{2}$ & southw't $\frac{1}{4}$	10	5	12	960 00	1,091 58	960 00	1,091 58
John Taylor.....	Jan. 20, 1808	Northwest $\frac{1}{4}$ .....	10	5	12	326 00	323 84	326 00	323 84
Edward Mason.....	May 20, 1819	Fractional. ....	11	5	12	2,384 08	2,726 69	1,784 04	2,040 41
William Powell.....	Nov. 5, 1811	Northeast $\frac{1}{4}$ .....	13	5	12	320 24	279 82	40 96	35 78
Isaac Lane.....	Act Ap'13, 1802		14&15	* 5	12				
			†16						
Matthew Stewart.....	April 8, 1815	Southeast $\frac{1}{4}$ .....	17	5	12	322 08	302 43	279 82	262 77
Archibald Stewart.....	April 18, 1815	Southwest $\frac{1}{4}$ .....	17	5	12	320 00	262 40	190 88	156 27
Ebenezer Wills.....	Sept. 30, 1822	Northeast $\frac{1}{4}$ .....	22	5	12	332 12	342 05	261 38	269 12
A. S. W. Kinney.....	Dec. 29, 1814	Southeast $\frac{1}{4}$ .....	22	5	12	332 00	272 24	96 68	78 07

Charles McClay.....	Oct. 19, 1818	East $\frac{1}{4}$ .....	23	5	12	634 00	634 00	634 00	634 00
Alexander Black.....	April 29, 1813	Northwest $\frac{1}{4}$ .....	23	5	12	317 04	312 29	241 12	237 56
Charles McClay.....	Oct. 13, 1815	Southwest $\frac{1}{4}$ .....	23	5	12	317 04	355 08	56 04	62 76
Michael Onstine.....	July 1, 1829	Northeast $\frac{1}{4}$ .....	24	5	12	320 00	230 00	15 92	11 44
Abraham Smith.....	Nov. 11, 1811	Southeast $\frac{1}{4}$ .....	24	5	12	320 00	267 40	164 34	137 32
Moses McIlvaine.....	March 28, 1821	Northwest $\frac{1}{4}$ .....	24	5	12	320 00	289 79	26 58	24 06
George Petty.....	Feb. 12, 1810	Northeast $\frac{1}{4}$ .....	30	5	12	320 00	311 48	205 00	199 60
George Petty.....	Feb. 12, 1810	Southeast $\frac{1}{4}$ .....	30	5	12	320 00	311 48	30 72	26 00
McIlvaine & Glenn.....	March 5, 1816	Northwest $\frac{1}{4}$ .....	19	5	13	316 00	315 80	64 10	64 05
Alexander Black.....	Feb. 14, 1816	Southwest $\frac{1}{4}$ .....	19	5	13	316 00	352 20	321 94	247 36
John Smith.....	Feb. 2, 1815	Fractional.....	24	5	13	744 00	628 68	396 30	334 87
Moses McIlvaine.....	Dec. 15, 1813	Northeast $\frac{1}{4}$ .....	25	5	13	310 12	254 30	310 12	254 30
Alexander Black.....	Feb. 13, 1815	Southeast $\frac{1}{4}$ .....	25	5	13	316 12	332 15	316 12	332 15
Richard & Thomas Clark.....	Jan. 9, 1815	Northwest $\frac{1}{4}$ .....	25	5	13	308 12	307 29	143 76	143 20
Black & Petty.....	July 3, 1829	Southwest $\frac{1}{4}$ .....	25	5	13	314 08	320 47	18 62	18 99
John Stip.....	Jan. 16, 1813	Northeast $\frac{1}{4}$ .....	26	5	13	629 08	596 84	249 80	236 96
Nevil & Campbell.....	July 3, 1829	Southeast $\frac{1}{4}$ .....	26	5	13	629 12	480 40	547 48	481 51
John Stip.....	March 3, 1815	Northwest $\frac{1}{4}$ .....	26	5	13	629 12	616 66	629 12	616 66
J. & I. Reynolds.....	March 31, 1825	East $\frac{1}{4}$ southwest $\frac{1}{4}$ .....	26	5	13	314 52	328 28	314 52	328 28
J. & I. Reynolds.....	July 4, 1831	West $\frac{1}{4}$ southwest $\frac{1}{4}$ .....	26	5	13	98 39	98 30	79 16	79 16
William Ward.....	July 11, 1814	Section.....	27	5	13	1,246 32	1,025 79	548 98	451 84
Samuel Nuell.....	Jan. 31, 1814	Southwest $\frac{1}{4}$ .....	28	5	13	315 00	326 74	43 08	44 67
John Shelby.....	Sept. 7, 1821	Northeast $\frac{1}{4}$ .....	30	5	13	314 92	226 35	314 92	226 35
John Linkeseviler.....	July 20, 1818	Southeast $\frac{1}{4}$ .....	30	5	13	314 92	460 59	190 72	278 93
Obadiah Howell.....	Sept. 28, 1822	Northwest $\frac{1}{4}$ .....	30	5	13	314 88	267 43	314 88	267 43
Henry Seerist.....	March 31, 1827	Southwest $\frac{1}{4}$ .....	30	5	13	314 88	255 84	307 14	249 53
William Hand.....	Jan. 16, 1813	Northeast $\frac{1}{4}$ .....	32	5	13	326 04	333 93	118 14	122 02
J. & I. Reynolds.....	Sept. 27, 1822	Southeast $\frac{1}{4}$ .....	32	5	13	334 00	335 20	4 66	4 68
William Newell.....	April 14, 1813	Northeast $\frac{1}{4}$ .....	33	5	13	322 04	264 08	322 04	264 08
Samuel Shields.....	Jan. 12, 1811	Northwest $\frac{1}{4}$ .....	33	5	13	326 18	324 52	152 98	152 20
Thomas Baird.....	March 21, 1810	Southeast $\frac{1}{4}$ .....	33	5	13	316 16	320 62	308 92	313 29
William McBeth.....	Aug. 17, 1812	Northeast $\frac{1}{4}$ .....	34	5	13	318 16	260 89	318 16	260 89
Charles Milbank.....	Jan. 8, 1812	Southeast $\frac{1}{4}$ .....	34	5	13	324 12	338 18	324 12	162 06
John Wall.....	March 9, 1813	Northwest $\frac{1}{4}$ .....	34	5	13	322 08	321 31	322 08	321 31
John Wall.....	Feb. 23, 1811	Southwest $\frac{1}{4}$ .....	34	5	13	328 08	321 34	321 84	315 22
John Wall.....	July 21, 1817	Northeast $\frac{1}{4}$ .....	35	5	13	340 00	314 61	118 74	109 93
Joseph McBeth.....	May 31, 1821	Southeast $\frac{1}{4}$ .....	35	5	13	324 00	232 87	324 00	232 87
Thomas Wilson.....	March 31, 1825	Northwest $\frac{1}{4}$ .....	35	5	13	342 16	323 54	333 06	256 45
Wilcox & McBeth.....	June 29, 1829	Southwest $\frac{1}{4}$ .....	35	5	13	328 00	235 00	328 00	235 00
Samuel Shields.....	July 3, 1829	Northeast $\frac{1}{4}$ .....	36	5	13	322 12	231 53	322 12	231 53

\* Donation.

† Vacant.

Name of purchaser.	Date of last payment.	Descriptions of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. States.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received being inclusive of interest, and exclusive of discount allowed.
William Gray .....	Sept. 28, 1822	Southeast $\frac{1}{4}$ .....	36	5	13	\$340 00	\$245 56	\$340 00	\$245 56
Samuel Wilson .....	June 30, 1829	Northwest $\frac{1}{4}$ .....	36	5	13	326 00	234 32	326 00	234 32
William Gray .....	Sept. 21, 1831	Southwest $\frac{1}{4}$ .....	36	5	13	343 20	361 47	343 20	361 47
James Wall .....	Feb. 20, 1813	Northeast $\frac{1}{4}$ .....	4	4	13	315 00	273 46	157 96	142 11
James Wall .....	Mar. 23, 1815	Northeast $\frac{1}{4}$ .....	5	4	13	313 04	296 04	313 04	296 04
Stephen Wall .....	Mar. 7, 1816	Southeast $\frac{1}{4}$ .....	5	4	13	314 00	323 13	207 84	217 19
Abraham Oppy .....	July 3, 1829	Northwest $\frac{1}{4}$ .....	5	4	13	313 04	225 00	39 42	27 63
John Dum .....	June 20, 1830	Northeast $\frac{1}{4}$ .....	6	4	13	316 00	347 56	316 00	347 56
Samuel Newell .....	Sept. 28, 1822	Northwest $\frac{1}{4}$ .....	6	4	13	316 00	227 12	316 00	227 12
Abner Snoddy .....	Sept. 28, 1822	Southeast $\frac{1}{4}$ .....	6	4	13	316 00	223 54	316 00	223 54
John L. McIlvaine .....	Aug. 8, 1831	W. $\frac{1}{2}$ & southw't $\frac{1}{4}$ .....	6	4	13	355 50	355 50	41 89	41 89
Lewis Whiteman .....	Aug. 8, 1831	E. $\frac{1}{2}$ & southw't $\frac{1}{4}$ .....	6	4	13	260 70	260 70	257 90	257 90
Joseph Creviston .....	Sept. 21, 1831	Fractional .....	19	4	14	234 00	190 12	234 00	190 12
Oliver M. Spencer .....	Oct. 2, 1830	Northeast $\frac{1}{4}$ .....	25	4	14	315 00	309 78	315 00	309 78
Jacob Burnet .....	Oct. 2, 1830	Northwest $\frac{1}{4}$ .....	25	4	14	315 00	309 78	150 30	147 80
Jesse Gale .....	Sept. 28, 1822	Southeast $\frac{1}{4}$ .....	25	4	14	315 00	227 50	315 00	227 50

Daniel Gano	Aug. 8, 1831	Southwest $\frac{1}{4}$	25	4	14	196 90	196 90	196 90	196 90
Robert Grant	July 28, 1811	Fractional	27&28	4	14	1,056 80	1,294 58	471 84	578 00
Patrick Moore	Sept. 16, 1815	Northeast $\frac{1}{4}$	31	4	14	314 54	325 00	92 54	95 62
Daniel Gano	Aug. 8, 1831	East $\frac{1}{4}$ southeast $\frac{1}{4}$	31	4	14	98 30	98 30	83 65	83 65
Daniel Gano	Aug. 8, 1831	West $\frac{1}{4}$ southeast $\frac{1}{4}$	31	4	14	106 16	106 16	61 87	61 87
Daniel Gano	Aug. 8, 1831	Northwest $\frac{1}{4}$	31	4	14	196 60	196 60	196 60	196 60
Daniel Gano	Aug. 8, 1831	Southwest $\frac{1}{4}$	31	4	14	314 52	352 06	314 52	352 06
Isaac Sandford	March 23, 1818	Southwest $\frac{1}{4}$	31	4	14	314 52	314 29	309 88	309 88
Jacob Burnet	May 4, 1819	Northeast $\frac{1}{4}$	32	4	14	312 00	237 69	312 00	237 69
David Ammer	May 19, 1829	Northwest $\frac{1}{4}$	32	4	14	314 52	314 29	290 00	290 00
Jacob Burnet	May 19, 1829	Southeast $\frac{1}{4}$	32	4	14	314 52	314 29	314 52	314 29
Jacob Burnet	May 19, 1829	Southwest $\frac{1}{4}$	32	4	14	314 52	314 29	314 52	314 29
Francis Carr	May 31, 1825	North $\frac{1}{2}$	33	4	14	615 08	651 41	615 08	651 41
Robert Patterson	Aug. 8, 1831	East $\frac{1}{4}$ southeast $\frac{1}{4}$	33	4	14	119 16	119 16	28 52	28 52
Robert Barr	Aug. 8, 1831	West $\frac{1}{4}$ southeast $\frac{1}{4}$	33	4	14	157 60	157 60	157 60	157 60
Robert Barr	Aug. 8, 1831	West $\frac{1}{4}$ southwest $\frac{1}{4}$	33	4	14	157 60	157 60	157 60	157 60
Geo. Wilcoven	Aug. 8, 1831	East $\frac{1}{4}$ southwest $\frac{1}{4}$	33	4	14	153 76	153 76	153 76	153 76
John Tallis	April 12, 1817	Northeast $\frac{1}{4}$	34	4	14	307 56	307 46	307 56	307 46
Leonard Houtz	June 16, 1816	Northwest $\frac{1}{4}$	34	4	14	307 52	365 59	307 52	365 59
Gann & Carter	March 31, 1825	Southeast $\frac{1}{4}$	34	4	14	307 52	288 28	307 52	288 28
Francis Carr	March 31, 1825	Southwest $\frac{1}{4}$	34	4	14	312 32	324 13	312 32	324 13
William Powell	Nov. 30, 1816	Fractional	35	4	14	1,046 24	1,284 29	1,046 24	1,284 29
Bennet & Davis	May —, 1819	Fractional	36	4	14	607 25	607 25	607 25	607 25
Leonard Houtz	Sept. 25, 1822	East $\frac{1}{4}$	1	3	14	624 20	618 05	624 20	618 05
Leonard Houtz	Nov. 23, 1820	West $\frac{1}{2}$	1	3	14	610 12	609 82	610 12	609 82
Jacob Burnet	May 4, 1819	Northeast $\frac{1}{4}$	2	3	14	314 20	314 20	314 20	314 20
Jacob Burnet	May 4, 1819	Northwest $\frac{1}{4}$	2	3	14	308 20	307 98	308 20	307 98
Jacob Burnet	May 4, 1819	Southeast $\frac{1}{4}$	2	3	14	310 16	309 93	310 16	309 93
Jacob Burnet	May 4, 1819	Southwest $\frac{1}{4}$	2	3	14	304 16	304 16	304 15	304 16
Jacob Burnet	May 4, 1819	Northeast $\frac{1}{4}$	3	3	14	312 00	311 77	312 00	311 77
Stephens Hayt	May 4, 1819	Northwest $\frac{1}{4}$	3	3	14	306 20	299 80	306 20	299 80
Jacob Burnet	May 4, 1819	Southeast $\frac{1}{4}$	3	3	14	316 00	315 80	316 00	315 80
J. & S. Perry	May 4, 1819	Southwest $\frac{1}{4}$	3	3	14	312 00	311 78	312 00	311 78
J. W. Johnston	May 4, 1819	Northeast $\frac{1}{4}$	4	3	14	316 00	327 82	316 00	327 82
A. Frantz	March 11, 1822	Northwest $\frac{1}{4}$	4	3	14	310 12	222 90	310 12	222 90
L. Houtz	June 23, 1823	Southeast $\frac{1}{4}$	4	3	14	312 00	227 62	312 00	227 62
L. Houtz	Nov. 27, 1819	Southwest $\frac{1}{4}$	4	3	14	306 04	326 82	306 04	326 82
L. Houtz	June 16, 1819	Northeast $\frac{1}{4}$	5	3	14	372 00	382 85	312 00	382 85
L. Whitman	Sept. 29, 1821	Northwest $\frac{1}{4}$	5	3	14	310 04	321 16	310 04	321 16
John Gunn	March 26, 1818	Southeast $\frac{1}{4}$	5	3	14	316 12	387 03	316 12	387 03
J. & I. Reynolds	March 27, 1818	Southwest $\frac{1}{4}$	5	3	14	314 04	384 04	314 04	384 04
Jacob Burnet	May 18, 1819	Northeast $\frac{1}{4}$	6	3	14	314 20	314 20	314 20	314 20

## B—Continued.

Name of purchaser.	Date of last payment.	Description of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. States.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.
J. & S. Perry.....	May 18, 1819	Northwest $\frac{1}{4}$ .....	6	3	14	\$310 00	\$310 00	\$310 00	\$310 00
Jacob Burnet.....	May 18, 1819	Southeast $\frac{1}{4}$ .....	6	3	14	312 00	312 00	312 00	312 00
R. S. Reed.....	May 18, 1819	Southwest $\frac{1}{4}$ .....	6	3	14	306 08	374 18	306 08	374 18
William Neil.....	July 2, 1827	Northeast $\frac{1}{4}$ .....	7	3	14	304 00	219 50	304 00	219 50
William Neil.....	July 2, 1827	Southeast $\frac{1}{4}$ .....	7	3	14	306 20	220 08	138 00	99 33
Anna Garst.....	Sept. 25, 1822	Northeast $\frac{1}{4}$ .....	8	3	14	624 00	450 70	624 00	450 70
Robert Barr.....	Aug. 8, 1831	West $\frac{1}{2}$ northwest $\frac{1}{4}$	8	3	14	118 50	118 50	68 53	68 50
John Powell.....	Aug. 8, 1831	East $\frac{1}{2}$ northwest $\frac{1}{4}$	8	3	14	229 20	229 20	229 20	229 20
Leonard Houtz.....	Sept. 25, 1822	Southeast $\frac{1}{4}$ .....	8	3	14	612 16	442 12	612 16	442 12
Robert Barr.....	Aug. 8, 1831	Southwest $\frac{1}{4}$ .....	8	3	14	257 40	257 40	81 29	81 29
John G. Caldwell.....	Sept. 20, 1817	Northeast $\frac{1}{4}$ .....	9	3	14	308 00	286 36	308 00	286 36
O. M. Spencer.....	May 4, 1819	Northwest $\frac{1}{4}$ .....	9	3	14	312 00	311 89	312 00	311 89
J. & S. Perry.....	May 4, 1819	Southeast $\frac{1}{4}$ .....	9	3	14	312 08	311 78	312 08	311 78
J. & S. Perry.....	May 4, 1819	Southwest $\frac{1}{4}$ .....	9	3	14	316 12	311 78	316 12	311 78
O. M. Spencer.....	May 5, 1819	Northeast $\frac{1}{4}$ .....	10	3	14	310 14	310 14	310 14	310 14
Fred. Shigley.....	Aug. 8, 1831	W. $\frac{1}{2}$ & northw't $\frac{1}{4}$	11	3	14	145 71	145 71	145 71	145 71



Jacob Burnet.....	Aug.	8, 1831	E. $\frac{1}{4}$ & northwest $\frac{1}{4}$ .....	11	3	14	122 08	122 08	122 08	122 08
O. M. Spencer.....	May	5, 1819	Northwest $\frac{1}{4}$ .....	10	3	14	316 08	316 08	316 08	316 08
O. M. Spencer.....	May	5, 1819	Southeast $\frac{1}{4}$ .....	10	3	14	306 16	305 94	306 16	305 94
O. M. Spencer.....	May	4, 1819	Southwest $\frac{1}{4}$ .....	10	3	14	312 12	311 90	312 12	311 90
Peter Dow.....	Aug.	8, 1831	E. $\frac{1}{4}$ & northeast $\frac{1}{4}$ .....	11	3	14	157 52	157 52	157 52	157 52
Jacob Burnet.....	Aug.	8, 1831	W. $\frac{1}{4}$ & northeast $\frac{1}{4}$ .....	11	3	14	157 52	157 52	157 52	157 52
Adam Snider.....	Aug.	8, 1831	E. $\frac{1}{4}$ & southeast $\frac{1}{4}$ .....	11	3	14	157 52	157 52	157 52	157 52
Jacob Burnet.....	Aug.	8, 1831	W. $\frac{1}{4}$ & southeast $\frac{1}{4}$ .....	11	3	14	122 08	122 08	122 08	122 08
Oliver M. Spencer.....	Sept.	29, 1821	Southwest $\frac{1}{4}$ .....	11	3	14	630 08	629 84	630 08	629 84
Frederick Shigley.....	Aug.	8, 1831	W. $\frac{1}{4}$ & northwest $\frac{1}{4}$ .....	11	3	14	145 71	145 71	145 71	145 71
Jacob Burnet.....	Aug.	8, 1831	E. $\frac{1}{4}$ & northwest $\frac{1}{4}$ .....	11	3	14	122 08	122 08	122 08	122 08
Lewis Whiteman.....	Aug.	8, 1831	Northeast $\frac{1}{4}$ .....	12	3	14	195 40	195 40	195 40	195 40
James McReed.....	Sept.	25, 1822	Southeast $\frac{1}{4}$ .....	12	3	14	312 52	225 72	312 52	225 72
Leonard Houtz.....	Mar.	12, 1822	Northwest $\frac{1}{4}$ .....	12	3	14	312 52	223 63	312 52	223 63
George Kellerman.....	Mar.	25, 1829	Southwest $\frac{1}{4}$ .....	12	3	14	312 52	224 63	312 52	224 63
O. M. Spencer.....	May	5, 1819	Northeast $\frac{1}{4}$ .....	15	3	14	310 14	310 14	248 78	248 78
O. M. Spencer.....	Oct.	15, 1820	Southeast $\frac{1}{4}$ .....	15	3	14	316 00	319 20	102 80	103 84
				*16	3	14				
J. & S. Perry.....	May	5, 1819	Northeast $\frac{1}{4}$ .....	17	3	14	312 56	312 56	312 56	312 56
Robert Casebolt.....	Aug.	8, 1831	E. $\frac{1}{4}$ & northwest $\frac{1}{4}$ .....	17	3	14	101 56	101 56	101 56	101 56
Henry Rockey.....	June	9, 1824	W. $\frac{1}{4}$ & northwest $\frac{1}{4}$ .....	17	3	14	97 65	97 65	97 65	97 65
J. & S. Perry.....	May	5, 1819	Southeast $\frac{1}{4}$ .....	17	3	14	312 56	312 56	312 56	312 56
J. & S. Perry.....	May	18, 1819	Southwest $\frac{1}{4}$ .....	17	3	14	312 52	312 52	312 52	312 52
Jacob Burnet.....	May	18, 1819	Northeast $\frac{1}{4}$ .....	18	3	14	311 56	311 56	311 56	311 56
John Taylor.....	July	1, 1829	Southeast $\frac{1}{4}$ .....	18	3	14	311 56	233 94	311 56	233 94
Jacob Burnet.....	May	18, 1819	Northwest $\frac{1}{4}$ .....	18	3	14	311 56	311 56	311 56	311 56
Jacob Burnet.....	May	18, 1819	Southwest $\frac{1}{4}$ .....	18	3	14	311 56	311 56	311 56	311 56
Robert Casebolt.....	June	26, 1827	Northeast $\frac{1}{4}$ .....	23	3	14	314 00	225 69	173 32	124 57
O. M. Spencer.....	June	26, 1827	Southeast $\frac{1}{4}$ .....	23	3	14	314 00	285 96	29 12	26 52
J. & S. Perry.....	May	18, 1819	Northeast $\frac{1}{4}$ .....	24	3	14	313 00	313 00	313 00	313 00
J. & S. Perry.....	May	18, 1819	Southeast $\frac{1}{4}$ .....	24	3	14	313 00	313 00	313 00	313 00
O. M. Spencer.....	Mar.	27, 1820	Northwest $\frac{1}{4}$ .....	24	3	14	313 02	314 45	108 06	108 55
O. M. Spencer.....	May	18, 1819	Southwest $\frac{1}{4}$ .....	24	3	14	313 00	313 00	23 12	23 12
Jacob Burnet.....	May	18, 1819	Fractional.....	34	3	15	133 78	133 78	133 78	133 78
J. & S. Perry.....	May	15, 1819	Northeast $\frac{1}{4}$ .....	1	2	15	313 40	313 40	313 40	313 40
J. & S. Perry.....	May	15, 1819	Northwest $\frac{1}{4}$ .....	1	2	15	313 40	313 40	313 40	313 40
J. & S. Perry.....	May	15, 1819	Southeast $\frac{1}{4}$ .....	1	2	15	313 40	313 40	313 40	313 40
J. & S. Perry.....	May	15, 1819	Southwest $\frac{1}{4}$ .....	1	2	15	313 40	313 40	313 40	313 40
O. M. Spencer.....	May	15, 1819	Fractional.....	2	2	15	517 44	517 44	517 44	517 44
Jacob Burnet.....	June	17, 1819	Northeast $\frac{1}{4}$ .....	7	2	15	313 20	313 20	313 20	313 20

\* Vacant.

## B—Continued.

Name of purchaser.	Date of last payment.	Description of tracts lying either wholly between said lines, or cut by Roberts's line.				Sum for which the entire tracts were sold, and the sum actually received into the treasury of the U. United.		Sum for which so much of said tracts as lie wholly between said lines was sold, and the sum actually received into the treasury of the U. States.	
		Part of section.	Section.	Township.	Range.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.	Sum for which sold.	Sum actually received, being inclusive of interest, and exclusive of discount allowed.
James McPherson. ....	June 21, 1821	Southeast $\frac{1}{4}$ .....	7	2	15	\$313 20	\$313 20	\$313 20	\$313 20
James McPherson. ....	Mar. 21, 1818	Southwest $\frac{1}{4}$ .....	7	2	15	313 20	370 64	313 20	370 64
James McPherson. ....	Mar. 15, 1819	Northwest $\frac{1}{4}$ .....	7	2	15	313 20	378 28	313 20	378 28
Jacob Burnet. ....	June 5, 1819	Fractional .....	8	2	15	520 00	520 00	520 00	520 00
O. M. Spencer .....	May 18, 1819	Fractional .....	13&14	2	15	1,312 12	1,312 12	1,312 12	1,312 12
O. M. Spencer .....	May 18, 1819	Fractional .....	19	2	15	1,051 40	1,051 40	1,051 40	1,051 40
J. & S. Perry .....	May 18, 1819	Fractional .....	25	2	15	800 00	800 00	23 46	23 46
						107,666 52	103,332 56	83,397 93	75,551 56

C.

WASHINGTON CITY, January 28, 1839.

DEAR SIR: I received your note of this morning's date, requesting my opinion respecting certain locations of land recently made by you on Virginia military warrants, in that part of the Virginia military district in the State of Ohio which lies between Ludlow's and Roberts's lines, and concerning which you have presented a memorial to Congress. To attain a clear understanding of your rights, and of the obligations of the United States in regard to these locations, it will be necessary to give a history of the legislation of Congress and of other public transactions concerning the district of country situated between the two lines above mentioned. Having been one of the counsel for the successful party in the suit, in which the Supreme Court of the United States established Roberts's line to be the true western boundary of the Virginia military district, I had occasion to make myself familiar with the history of that boundary; which I understand from you to be the reason of your application to me for my opinion on this subject. Your claim has its foundation in the deed of cession by the Commonwealth of Virginia to the United States of the country northwest of the Ohio river in the year 1784. By that deed, the country lying between the Little Miami and Scioto rivers, in the present State of Ohio, was reserved to supply any deficiency of good lands that might be found to exist in the country southeast of the Ohio, which had been before that time set apart by Virginia, within the limits of the present State of Kentucky, for the satisfaction of the bounties promised by her to her troops on continental establishment. (1 vol. Laws U. S., 472.) On the day of the execution of this deed by the delegates of the Commonwealth of Virginia, Congress passed an act of acceptance of it. (1 vol. Laws U. S., 474.)

In the year 1790, six years after the date of the deed of cession, Congress passed an act admitting a deficiency of *good lands* on the southeasterly side of the Ohio for the satisfaction of those bounties, and authorized locations to be made in the reservation between the Little Miami and Scioto rivers. (2 vol. Laws U. S., 179.) At the period of the deed of cession, and for many years after, the country reserved was an uninhabited wilderness, and incapable of being described by well defined and specific boundaries. The Scioto and Little Miami rivers were both known to be tributaries of the Ohio, and the reservation was described as the country between them. The sources of those rivers are from fifty to sixty miles apart, and the boundary line between them was of necessity left open by the parties to the deed of cession for future adjustment, when a more perfect knowledge of the country should be obtained. In the years 1785, 1796, and 1800, Congress passed laws providing for the survey and sale of portions of the public lands northwest of the river Ohio. In the execution of these laws it became necessary to run the boundary line between these two rivers, it being one of the exterior lines of the government lands. The Executive of the United States, without waiting, and perhaps without inviting, the co-opera-

tion of Virginia, sent out, in the year 1802, a surveyor of the name of Ludlow, with instructions to run a direct line from the source of the Little Miami to the source of the Scioto. He proceeded to the country, explored the Little Miami, found its true source, and run from it a direct line towards what he supposed to be the source of the Scioto. On arriving at what was then the Indian country, at the distance of some forty-two or forty-three miles from the commencement of his line, he was arrested by the Indians, who refused to permit him to extend it through their country to the source of the Scioto. As has been since established by a judicial decision, this line, in point of fact, bore too far to the east, and encroached upon the reservation, and would, if extended strike the Scioto river a considerable distance below its source. This conjectural line was returned to the surveyor general's office as the true boundary line, and the surveys of the public lands west of it were based upon or connected with it. The reservation of the country between the two rivers was a matter of compact between the contracting parties, and is a part of the deed of cession. It is therefore very clear, as a legal proposition, that neither party, without the assent of the other, possessed the power to fix the boundary between the country granted and the country reserved out of the grant. If either party possessed this power to the exclusion of the other, it would seem to be as reasonable that it should belong to the donor as to the donee to say how much had been reserved; and Virginia with as much propriety might have passed an act, without the consent of the United States, to fix the boundary of her reservation, as the United States could do the same thing without her consent; and such unquestionably was the understanding of Congress. That body, in 1804, two years after the running of Ludlow's line, passed an act declaring that the line run by him, together with its course continued to the Scioto river, should be considered and held as the western boundary line of the reservation between the two rivers; provided that the State of Virginia should, within two years after its passage, recognise it as the boundary line. (3. vol. Laws U. S., 592.)

This act *is not a law*, but simply a proposition to Virginia, and is inconsistent with the assertion of a right in Congress to fix the boundary without the consent of Virginia. And such is the construction given to that act by the Supreme Court of the United States. It came under the review of that court, in the year 1824, in the case of *Doddridge vs. Thompson* and others. The defence of that suit was conducted by the United States as the real party in interest. It was maintained by the Attorney General, in argument, that this act established Ludlow's line as the boundary. The court, however, decided that the act neither did nor could establish it. The court, in reference to that act, use the following language, viz: "This act shows, we think, very clearly, that Congress did not mean to assert a power to fix the western boundary of the military reserve. The deed of cession and the act of acceptance were considered as forming a contract respecting a territory, the western line of which could not, at the time, be fixed with precision, and which was unavoidably described in terms requiring subsequent ex-

planation and adjustment. This adjustment was to be made, *not by one of the parties; but by both*; and this act is an essay towards it. Congress makes a proposition to Virginia by which the United States are to be bound, provided Virginia accepts it within two years; if not accepted within that time, *the parties stand on their original rights as if it had never been made.*" (9 Wheaton's Rep., 477.) If the adjustment was to be made by both parties, it would seem to be very clear that neither party could, of itself, curtail or enlarge the reservation. Virginia did not accept this proposition. The subject of this boundary remained without further legislative action till the year 1812, when Congress made another essay to bring about its adjustment. In that year an act was passed which authorized the President of the United States to appoint three commissioners on the part of the United States, to act with such commissioners as might be appointed by the State of Virginia—the commissioners to have full power to ascertain, survey, and mark the boundary in question between the Little Miama and Scioto rivers. The act contained a provision, that *until* the westerly boundary of the reservation should be established by the agreement and consent of the United States and the State of Virginia, the line (Ludlow's line) designated by the above mentioned act of 1804 should be considered and held as the proper boundary. (4 vol. Laws U. S., 455.)

This act also carries on its face an admission that Congress could not establish the boundary without the consent of Virginia. As no other line but Ludlow's had then been run, it was presumptively the true line; and hence it was, for the present, assumed by the act to be the true boundary, to exist as such no longer than till the parties to the deed of cession could ascertain and agree upon the true line. The act contains an undoubted promise, by implication, that when the true line should be established, the holders of military warrants would be permitted to make their locations up to it; otherwise the whole proceeding under the act would be but useless formality, without object, and without result, and could serve no other purpose than to cast upon Congress the unjust reproach of insincerity. It was, without doubt, a prudent precautionary measure to establish a temporary boundary that should exclude locators of military warrants from the disputed district, till the real boundary could be settled; since, if they made their locations beyond the limits of the reservation, it would most probably occasion much inconvenience. But it cannot be denied, that while the military claimants were shut out from the disputed district, to await the settlement of the question, the government of the United States, as trustee of the reservation, holding it for the benefit of the military claimants, by the very act of exclusion imposed upon itself a moral obligation not to sell and put into its own treasury the proceeds of the disputed country. Shortly after the passage of this act the commissioners of the United States met those of Virginia; they jointly explored the two rivers, and fixed upon their sources. A surveyor, of the name of Roberts, was directed by them to run a direct line from the source of one river to the source of the other. He run the line accordingly, and this is known by the name of Roberts' line.



While this line was being run, or on its completion, the Virginia commissioners advanced a claim that the boundary of the reservation, according to the meaning of the deed of cession, was a direct line to be run from the source of the Scioto to the *mouth* of the Little Miami, instead of to the *source* of the latter river. Such a line would have greatly enlarged the extent of the reservation. On this disagreement, the commissioners separated without an adjustment, and each commission made its own separate report to its government. The commissioners of the United States were directed by the act, in case of disagreement, to report to their government the line they should find to be the boundary. They reported that Roberts's line was the true boundary between the two rivers, and that they had insisted upon its recognition as such by the Virginia commissioners. Roberts's line is west of Ludlow's. Both lines commence at the same point in the source of the Little Miami, and diverge from each other until they strike the Scioto, forming between them a triangular gore of country. This report of the commissioners of the United States reduced it to a reasonable if not to an almost absolute certainty that Roberts's line was the true boundary of the reservation. Though this commission did not establish the boundary, yet, from the time the commissioners of the United States made their report, Ludlow's line could no longer be regarded as the *presumptive* boundary; and it might fairly be assumed as an ascertained fact that the reservation did extend at least as far as Roberts's line, and furnish a rule for the government of the trustee in the discharge of the duties of the trust. So far as respects the country up to Roberts's line, the object of the act of 1812 had been as effectually accomplished as though the Virginia commissioners had agreed to its establishment. And it is not perhaps insisting upon too much to say that, from the time of the making of that report, the United States, as the trustee of the military claimants, ought to have permitted them to appropriate the country up to that line in satisfaction of their bounties. It certainly ought not, after that, to have sold the land between Ludlow's and Roberts's lines as *public land*, and appropriated the proceeds of the sale to itself. It is very clear that, as between individuals, such a proceeding would not be sanctioned by a court of equity. For some reason, probably from inadvertence, Congress omitted to act further on the subject, and the lands then remaining unsold between those lines continued to be sold as public land. In 1818, Congress passed an act involving the singular contradiction of declaring Ludlow's line, as far as the same was run by him, the boundary, *until otherwise directed by law*; and from thence to the source of the Scioto Roberts's line was declared to be the permanent boundary. (6 vol. Laws U. S., 282.) The Supreme Court of the United States have since decided that the true boundary is a straight line from the source of one river to the source of the other. (Reynolds *vs.* McArthur.—2 Peters's Rep., 436.)

The subject of this boundary remained in this situation until the year 1824, when it came up for adjudication by the Supreme Court of the United States in the before-mentioned case of *Doddridge vs. Thompson* and others. In that case, the court was directly called

upon to establish the boundary in question, by judicial construction of that clause in the deed of cession which created the military reservation. That case came up under the following circumstances: Prior to the passing of the above-mentioned act of 1812, certain entries of military warrants had been made in the disputed country; the same lands were sold by the United States as public lands, and the proceeds paid into the treasury of the United States. Thus the question involved a direct conflict of title depending on the question of boundary. In that case it was admitted by the parties (the United States being one of the parties to the admission) that Roberts's line ran from the source of the Little Miami to the source of the Scioto. The different hypotheses assumed by the parties, as to the principle that should govern the boundary, are examined by the court. It lays down the principle that a right line from the source of one river to the source of the other is the true line of boundary according to the provision of the deed of cession. This established Roberts's line. The court further decided that the United States held the reservation *in trust*, for the satisfaction of the bounties Virginia had promised her troops on continental establishment. It further held that, by the deed of cession, the *whole country* between these rivers was reserved for the troops, and that Congress had never authorized the military lands, or any part of them, to be sold as public land. Upon these principles, the military claimants recovered. (9 Wheaton's Rep., 469.)

As a fact having some bearing on this question, it ought to be here stated that Congress never has to this day authorized the sale of any land within the reserve: but the land up to Ludlow's line, and west of it, having been surveyed as public land, the land officers of the Cincinnati land district have treated it as land within that district, and sold it as such. The Supreme Court expressly held that the land district did not extend east of Roberts's line. A doubt subsequently arose, whether the commissioners in 1812 had found the true source of the Scioto; and in consequence of that doubt, some dissatisfaction with the decision of the court was manifested in Congress. It was objected that it ought not to have been admitted as a fact that the commissioners did find the true source of the Scioto. To put that doubt at rest another suit was instituted in Ohio, by another claimant of a military entry in the disputed country, made in the year 1810, against another purchaser of the same land of the United States. The defence of this suit was also conducted by the United States. Under an order of the court, very careful and expensive examinations and surveys of the country were made, in which the officer of the court was attended by an agent of the United States, and by the plaintiff in the suit. The result was, that, by a verdict of a jury of the supreme court of the State of Ohio, Roberts's line was established as the true boundary. The counsel for the defendant, who represented the interests of the United States, filed his bill of exceptions to the instructions given by that court to the jury, declaring the principles which ought to govern them in finding the boundary. A writ of error was prosecuted into the Supreme Court of the United States, where the whole

question was again carefully reviewed ; and that court again affirmed the principles laid down by it in the case of *Doddridge vs. Thompson* and others, and affirmed the judgment rendered by the supreme court of Ohio. Thus this question of boundary was forever put at rest. The last decision was made in 1829, in the case of *Reynold's vs. McArthur*. (2 Peter's Rep., 417.)

*Good lands* were promised, by the deed of cession, to the Virginia troops. It is a notorious fact that the good lands east of Ludlow's line were exhausted twenty years ago ; and that there has been, during that time, and still is in that part of the reservation, a deficiency of good lands to satisfy the bounties of the troops. The lands lying between Ludlow's and Roberts's lines are, for the most part, of good quality, and some of them are very choice lands. It must be admitted that the establishment of Roberts's line by judicial decision has devolved upon the United States every duty which would have resulted from its establishment by the agreement of the parties to the deed of cession ; yet the prohibition against the military claimants making entries of their warrants west of Ludlow's line remains to this day in full force. They have thus been deprived of a portion of the lands reserved for them by Virginia by no fault of theirs. It was not their fault that Ludlow run an erroneous line, or that the officers at the Cincinnati land office sold these lands under the mistaken idea that they lay within the land district, and that the sale of them was authorized by law. They had no agency in producing either of these mistakes ; and it cannot be seriously argued anywhere that the government can enjoy a benefit by the mistakes of its agents, to the injury of those for whom it held these lands in trust, which it would never have had if the mistakes had not been committed. In such a case a court of equity would enforce the execution of the trust as between individuals ; and the plea of mistake, however it might protect the purchaser of the trust fund, would avail the trustee nothing. If the trustee, by mistake or otherwise, had disposed of the trust-fund, and appropriated the proceeds to his own benefit, he would be compelled to compensate his beneficiary by an equivalent either in kind or in money. In the above-mentioned cases, where a recovery was had, a compensation was given in money, the land being estimated as in a state of nature. The persons to whom the government officers by mistake sold the lands now in question are fair and innocent purchasers, and as such ought, without doubt, to be quieted and protected in their possessions. The recent acts of Congress, prohibiting the military claimants from going beyond Ludlow's line, were intended to protect them ; but it is equally clear that those who are prohibited are entitled in equity to an indemnity. The money received from the purchasers, and now in the treasury, will go far towards giving them an indemnity. If the United States took the territory in trust for the satisfaction of the bounties promised by Virginia ; if the *whole* territory between the two rivers was reserved ; if Roberts's line be the true boundary of the territory, and all of these are facts established by the Supreme Court of the United States ; and if there is also a deficiency of *good lands*

to satisfy the warrant holders, without going beyond Ludlow's line, then these facts combined create a clear, equitable claim in favor of the military bounties, and impose upon the government a clear moral obligation to discharge it in some form; and if, under these circumstances, your locations are rendered invalid, and you are deprived of a legal remedy by the legislation of Congress, that very legislation gives additional force to the equity of your claim, when the appeal for justice is made to Congress itself.

Your very obedient servant,

SAML. F. VINTON.

CADWALLADER WALLACE, Esq.

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*Exposition and argument of D. F. Heaton, addressed to the Committee on Public Lands, in support of the claim of Cadwallader Wallace, of Ohio, to certain lands located by him in the Virginia military reservation, between the lines of Ludlow and Roberts, and between the Little Miami and Scioto rivers.*

MR. CHAIRMAN: By adverting to the memorial of said Wallace, of the present session, which has been already referred to this committee, it will be perceived that the claim of the memorialist is predicated upon certain bounty land warrants, issued in favor of certain officers and soldiers of the Virginia line upon continental establishment, in consideration of military services performed by them in said line in the revolutionary war; which said warrants have been assigned to said Wallace by the proper claimants for a valuable consideration, and located in his favor as assignee in said Virginia military reservation, between the said lines of Ludlow and Roberts; to which he claims title in virtue of said premises, and in virtue of a provision and stipulation in the Virginia deed of cession of 1784, reserving said territory for the purpose of satisfying the bounty land claims of said Virginia troops; which said provision is in the following words, to wit:

"That in case the quantity of *good land* on the southeast side of the Ohio, upon the waters of the Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line, bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency shall be made up to said troops in *good land*, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such *proportions* as have been engaged to them by *the laws of Virginia*."

The territory thus ceded and reserved was claimed by Virginia in virtue of a charter from James I, king of England, of the 23d of May, 1609, upon which her constitution of 1776 was predicated, and adopted at a convention of delegates chosen for that purpose in that year, during the interregnum occasioned by the revolution. Besides this, she interposed an additional claim, on the grounds of



conquest and occupancy during the said revolutionary war, by her own troops upon her own State establishment, which she held and maintained at her own expense to the close of the war, which facts are recognised in said deed of cession; for in that instrument the United States, in consideration of the premises, undertook and faithfully promised and agreed, to pay and refund to Virginia all the expenses which she had incurred in subduing said country, and maintaining forts and garrisons within the same, and in defending or in acquiring any part of said territory, &c.

In addition to this, the said United States did further undertake, promise, and agree to see that the bounty land claims of the said Virginia troops upon continental establishment should be fully satisfied in good lands in said reservation, according to the terms of said deed of cession, in case the reservation on the southeast side of the said Ohio river should prove insufficient for that purpose.

It was soon after ascertained that a large deficiency would exist, not only by reason of the said North Carolina line bearing further in upon these lands than was anticipated, but also by reason of the interference of hostile Indians, which, for a season, prevented locations and surveys in said reservation, until they were wholly barred by the compact of Virginia with Kentucky in 1789, in relation to the admission of said Kentucky Territory into the Union as an independent State; by reason of which, these Virginia bounty land claimants commenced making locations in the reservation on the northwest side of said river, before the deficiency was legally ascertained or recognised. This induced the continental Congress to adopt a resolution in July, 1783, calling upon the executive of Virginia to inform Congress whether there was any deficiency, in order that measures might be taken for the purpose of laying off, *for the benefit of said troops, a sufficient quantity of good land* on the northwest side of said river, between the Little Miami and Scioto rivers, &c.

In pursuance of this resolution, the agents for said troops reported to the governor of Virginia that there was not a sufficient quantity of good land in said southeastern reservation, to satisfy the bounty land claims of said troops, which Congress, at its second session under the new constitution, on the 10th of August, 1790, recognized as sufficient evidence of the fact; and thereupon authorized locations and surveys to be made in said northwestern reservation, between the Scioto and Little Miami rivers, and legalized and confirmed those which had been previously made.

But again: to show with what care the Continental Congress always regarded the rights of the officers and soldiers of the Revolution, as secured to them under said deed of cession, I would refer the committee to the ordinance of that patriotic body of the 20th of May, 1785.

This ordinance was passed for the purpose of ascertaining the mode of disposing of the public lands in the ceded territory, which said ordinance formed, and still forms, the basis of our present land system. After pointing out the mode of surveying and dispo-



sing of the public lands, and after securing to the officers and soldiers of the revolutionary army, generally, the bounty lands engaged to them by the Continental Congress, and other things, it introduced the following clause in favor of the said Virginia troops, to wit:

“ Saving and reserving always, to all the officers and soldiers entitled to land on the northwest side of the Ohio, by donation or bounty from the commonwealth of Virginia, and to all persons claiming under them, all the rights to which they are so entitled under the deed of cession executed by the delegates for the State of Virginia, on the 21st day of March, 1784, and the act of Congress accepting the same. And to the end that *said rights may be fully and effectually secured, according to the true intent and meaning of the said deed of cession and act aforesaid, Be it ordained, that no part of the land included between the rivers called Little Miami and Scioto, on the northwest side of the river Ohio, be sold, or in any manner alienated, until there shall first have been laid off and appropriated for the said officers and soldiers, and persons claiming under them, the lands they are entitled to, agreeably to said deed of cession and act of Congress accepting the same.*”

And, in addition to these things, it will be seen, by adverting to the act of the 18th May, 1796, which authorized the appointment of a surveyor general for the purpose of surveying the public lands, that it refers to this ordinance, and exempts the military lands reserved in said ordinance and deed of cession from being surveyed under the provisions of said act. Nor can any act, resolution, or ordinance, either of the old or new Congress, be found, indicating a disposition on the part of Congress to curtail the bounds of this reservation in case the whole should become necessary to satisfy these claims.

It is, therefore, clear that if any part of this reservation has been sold, or in anywise alienated, as public lands, by mistake or otherwise, the same sale is utterly null and void, and that the lands thus sold are liable to be located and appropriated in satisfaction of any unsatisfied Virginia military warrant issued for services in her line upon continental establishment. It, therefore, only remains to be shown that the survey of said Wallace is within the limits of said reservation, and that the same is founded upon warrants issued for services in said continental line.

By adverting to said survey, and the several diagrams of said reservation, it will be seen that said survey is bounded on the east by Ludlow's line, on the north by the Greenville treaty line, and on the west by Roberts's line, forming an oblique angled triangle, with the exception of sundry entries and surveys which had been previously made between said lines in favor of General McArthur, and others, with whom Congress compounded, and procured releases of their interests in said surveys, with a view to quiet and perfect the titles of those who had previously purchased the same, as public lands of the general government.

These lines of Ludlow and Roberts were run with a view to ascertain the western boundary of said reservation, upon the princi-

ple of running a direct line from the source of the one river to that of the other—which was afterwards established by the Supreme Court of the United States as the true principle; a principle which had always been adhered to and maintained by Congress both before and since said decision. It would, therefore, follow as a necessary consequence that if Roberts's said line is the true line, according to this principle, the said survey of Wallace is within said reservation, and valid against any claim not founded upon these Virginia "military warrants," as it is wholly east of said line.

But, in order to understand the reasons why these two lines were run, it would seem necessary to give a short history of them.

Ludlow's line was run under the authority of the surveyor general, in carrying out the provisions of the act of the 10th of May, 1800, which was amendatory to the act of 18th of May, 1796, relating to surveys and sales of public lands in the territory northwest of the river Ohio. This line was run for the purpose of dividing the public from the military lands preparatory to the surveying of the public lands into townships and sections, &c.

Ludlow commenced his line at the headwaters, or source of the Little Miami, and from thence took such a course as he supposed would strike the headwaters of the Scioto, or near it. This was only intended as a random line, to be corrected in case it did not strike the source of said river. He continued this line north, 20 degrees west, until he came to the Greenville treaty line, where he was intercepted by the Indians and prevented from proceeding further, and was thus hindered and prevented from ascertaining the source of said Scioto river; so his line was never extended to the Scioto.

But, in consequence of its being generally supposed, and especially by Congress, that there was more land in the said reservation than was absolutely necessary to satisfy those military claims, (whether said line would strike east or west of the source of said river,) the said surveyor, without any further authority from Congress, proceeded to survey the lands west of said line, and up to the same, as public lands.

Thus the matter stood, until it was fully understood that Ludlow's line extended would strike a considerable distance east of the headwaters of said river. Congress, therefore, on the 23d day of March, 1804, passed an act for the purpose of ascertaining the boundary of said reservation, and with a view to the establishment of the said line of Ludlow, when extended, in case Virginia would agree to the same. This act provides "that the line run under the direction of the surveyor general, from the source of the Little Miami, which binds on the east the surveys of the lands of the United States, shall, together with its course continued to the *Scioto river*, be considered and held as the westerly boundary line (north of the source of said river) of said reservation: *Provided*, That the State of Virginia shall, within two years thereafter, recognise such line as the boundary of said territory."

This act shows that Congress had become satisfied that Ludlow's line extended would strike the Scioto east of its source, as it mentions the continuation of said line to the *Scioto river*, and not to its

source, as well as shows that Congress did not consider that it had a right to fix any other *than the true boundary*, without the consent of Virginia; and that they were satisfied, even at that early period, that Ludlow's line did not form the true western boundary of said reservation, according to the terms of said deed of cession. But as Virginia did not recognise said line within the time prescribed, the rights of parties remained as they were anterior to the passage of said act.

The next step taken by Congress to settle this matter was in 1812. On the 6th day of June in this year Congress passed an act for the purpose of ascertaining the western boundary of said reservation. This act authorized "the President to appoint three commissioners on part of the United States, to act with such commissioners as might be appointed by Virginia, *'with full power and authority to ascertain, survey, and mark, according to the true intent and meaning of the condition touching the military reservation in the deed of cession from the State of Virginia to the United States, between the Little Miami and Scioto rivers,'*" &c.

The commissioners, as well on the part of the United States as on part of Virginia, met, and proceeded to ascertain the true sources of said rivers, and to run a line from the one to the other; and, to do this, they employed a skilful surveyor by the name of Charles Roberts, who accordingly run a line from the source of the Little Miami to that of the Scioto, as agreed upon by said commissioners; and this is called Roberts's line.

But it being ascertained that the source of the Scioto was considerably west of the source of the Little Miami, the commissioners on part of Virginia refused to agree to said line, and claimed that a line should be run from the source of the Scioto to the mouth of the Little Miami; but as this proposition would include a large tract of country west of the Little Miami, and not within the said reservation according to the true intent and meaning of said deed of cession, the commissioners on part of the United States would not entertain said proposition; consequently, no line was established by the consent of both parties. But the commissioners on part of the United States made their report to the Commissioner of the General Land Office, agreeably to said act of 1812, a copy of which is herewith submitted.

The 4th section of this act provisionally established Ludlow's line, as designated in the said act of 1804, until a line should be finally established by consent of both parties, &c. This act of 1804, which designated Ludlow's line, when extended to the Scioto as the boundary of said reservation, (in case Virginia would recognise the same,) had become obsolete by the non-acceptance of Virginia within the time prescribed in said act. But this act of 1812 revived it for temporary purposes, and it so continued until the act of 11th April, 1818, which made another and a wholly new and extraordinary designation of the western boundary of said territory. It provisionally established Ludlow's line from the source of the Little Miami to the Greenville treaty line, and Robert's line permanently, or unprovisionally, from the said treaty line to the source

✓ of the Scioto. By this act, Ludlow's line (south of said treaty line) was "*to be considered and held to be the westerly boundary line of said reservation until otherwise directed by law; and that the line run by Roberts, north of the said treaty line, was to be considered and held to be the westerly boundary thereof,*" (without any provision or condition;) "and that no patents should be granted on any location and survey that had been or might be made west of the aforesaid respective lines."

It will be seen that this act did not prohibit location and surveys west of said lines, but only that they should not be carried into grant during the existence of that law; nor did it declare patents to be void which might nevertheless be obtained on such surveys.

No further action of Congress was had in relation to these lines until the question of boundary was settled by the Supreme Court of the United States, in the case of Doddridge and others, on a survey made between these lines on land which had been previously sold and patented as public lands.

In this case the court decided that the whole country lying between the Scioto and Little Miami was subjected, under the said Virginia deed of cession, to the satisfaction of these Virginia military warrants; that the territory lying between two rivers was the whole country from their sources to their mouths; and that, if no branch of either had acquired the name exclusively of another, the main branch, to its source, must be considered as the true river, &c.

In order, therefore, to establish the claim of said Wallace according to the principles laid down in this decision, it is only necessary to establish the following facts and points, to wit:

1st. Is said survey within the limits of said reservation, and is it founded on warrants issued by Virginia, for military services in her line upon continental establishment in the revolutionary war; and have they been assigned to said Wallace?

2d. Is the whole of said reservation necessary to satisfy, in good lands, the legal bounty land claims of the officers and soldiers of said line?

And, first, as to the legality of the warrants and assignments. These propositions appear from the warrants and assignments themselves. The first from the warrants, which show on their faces to have been regularly issued by Virginia for military services performed in her line upon continental establishment in the revolutionary war. They also show on their backs that they have been legally assigned to said Wallace, by the proper claimants. In addition to these facts, there is an official statement and report of the Commissioner of the General Land Office, to whom the same had been referred, showing that they had been examined and found to have been regularly issued and assigned to said Wallace, &c.

And, secondly, as to the said survey being within the said reservation. This fact is established by the survey itself, which shows upon its face that it is wholly east of Roberts's said line, and consequently within said reservation, according to said decision of court; that it is bounded on the west by Robert's said line, on the



east by Ludlow's said line, and on the north by the said Greenville treaty line, and consequently liable to be located in satisfaction of these claims; especially as it has been clearly established that there is not a sufficient quantity of good land in said reservation, even including the said land between said lines, to satisfy said Virginia military claims. But, in case there had been a sufficient quantity of good land for that purpose, it might perhaps change the aspect of this case a little, as the residuum, whatever it might be, would belong to the general government, as the residuary grantee, &c.

But it will be perceived from the terms of the said deed of cession, as well as from the express language of the ordinance of 1785, and all the acts of Congress in relation to this matter prior to this difficulty, that these Virginia bounty land claims were to be *first fully satisfied before the general government had any right to appropriate any part of said reservation to its own use*. And here let me ask, is there any principle of law or equity that would authorize a residuary grantee or devisee to appropriate the whole or any part of the estate granted or devised to his own use before satisfying the primary claims upon which the residuum depended? Surely no such principle can be sustained in any form, whether judicial or legislative. It would follow, then, as a necessary consequence, that any appropriation or sale of any part of this reservation, for the use and benefit of the United States, would be wholly illegal as well as unjust, besides repugnant to the authority and rights conferred in said deed of cession, and therefore wholly null and void.

By the terms of this deed of cession, the United States, in legal contemplation, became the trustee not only of the officers and soldiers of the Virginia line upon continental establishment, but also for the Union or States. It stood in the light of a trustee for said troops for the land reserved to them in said grant or deed of cession, and it stood in the light of trustee for the Union or the States—Virginia inclusive—for the lands not reserved, which it had a right to sell at any time as public lands, but not the lands in said reservation, nor any part thereof, until the proper proportions were first *secured to and laid off* for the said officers and soldiers of the said Virginia line; for these claims formed the primary demand upon this reservation, and must therefore be first satisfied. And in this view of the case I am fully sustained, not only in the decision of said court in the case of Doddridge, but also by another decision of the same court in the case of Jackson against Clark. The court in this case establish this doctrine: that “the government received this *territory in trust*, not only for said *Virginia troops*, but also for the use and benefit of the Confederation; that the *military rights constituted the primary claim on the trust*, and that they were to be first satisfied; and that the trusts were to be executed by a faithful and *bona fide* disposition of the land, according to the uses and trust created in said deed of cession, and for no other use or purpose whatever.”—1 Peters, 628.

So in the case of Doddridge, before mentioned, Chief Justice



Marshall, in delivering the opinion of the court, observed : "That while the government of the Union was to be considered as holding the territory ceded by Virginia *in trust for the officers and soldiers of Virginia, so far as the reservation for their benefit extended*, it was also to be considered as holding the lands *not reserved* in trust for the nation, and as being bound by its high duties *faithfully to execute the trust*."

The government, therefore, stands seized in fee to the use of said officers and soldiers of the Virginia line to that part of said territory reserved to them, and stands seized to its own use to the whole residue of said territory not reserved; and did, in contemplation of law, covenant and agree to stand thus seized, and faithfully to execute the uses and trusts thus created and declared in said deed of cession, according to the true intent and meaning thereof; and if it fails to do this, it is surely liable to the party-injured, in some form or other.

If the contest were between individuals, there would be no difficulty; the courts of law and justice could then redress the wrong: but, as no patent has been issued on said survey, the action of ejectment cannot be sustained, as in the cases of Doddridge and others against the tenants in possession. Nor could a bill in chancery be sustained, as the government could not be made a party. The claimant is, therefore, remediless in the premises, in the courts of both law and equity, and can only be relieved by the action of Congress, to which he appeals, and claims nothing but even-handed justice. He claims nothing but what law and justice would administer between individuals, and the agents of government should claim no more; nor does he ask as much as has been awarded, under similar circumstances, in the cases mentioned; for it will be perceived by the exhibits, and the decision of said court in said cases of Doddridge and others, that their surveys were located between Ludlow's and Roberts's line. It will also be perceived by adverting to the survey of said Wallace, and the certificate of the principal surveyor of said district, that his said survey is also within said lines, lying and being wholly east of Roberts's line, which was established, as before mentioned, as the true line, occupying the whole residue of said reservation between said lines, and is, therefore, within the limits of said reservation as well as the other cases; and, by adverting to the report of the Commissioner of the General Land Office, and the certificate of the principal surveyor of said reservation, and sundry affidavits, it will be seen that the third proposition is fully established; which is, that there is not a sufficient quantity of good land in said district to satisfy these Virginia military claims. Besides, the action of Congress shows this fact even as early as 1830, for in that year it appropriated 600,000 acres for the satisfaction of these Virginia military bounty land claims, solely on the ground that the *good land was exhausted*; and that afterwards, in the years 1832 and 1835, *two other large appropriations were made for the same purpose*, and that still a large amount of *outstanding warrants remain unsatisfied*. In this particular, Wallace's said claim presents a more favorable and equitable aspect

than the others; for these surveys were made at a time when it was generally understood, and believed, that there would be a sufficient quantity of good land in said reservation to satisfy all these said Virginia claims, and also after Ludlow's line had been provisionally designated by Congress as the western boundary of said reservation. But said claimants conceived that Congress had not the right, or power, to curtail the limits of said reservation, until their claims were first satisfied; that it had not a right to select the best lands in said reservation in the first place, and sell and dispose of them to its own use, and then say to the Virginia claimants that they might have the residue, and do the best they could with it—thus reversing the express terms of said deed of cession, and making said Virginia claimants the residuary instead of the primary grantees. And notwithstanding this provisional line, and notwithstanding Congress had enacted another provision, even as early as 1807, declaring “that no location should be made in said reservation on tracts of lands for which patents had been previously issued, or which had been previously surveyed, and that any patent which might, nevertheless, be obtained for lands thus located, should be considered null and void, (and this provision was made a strong point in the said case of *Doddridge*, by the adverse claimants under the government, which was overruled by the court,) so confident the court seemed to be that Congress never intended to curtail the limits of said reservation, to the prejudice of the Virginia claimants, that it held that said provision had no application to the lands west of said line surveyed as public lands, within said reservation; although it would seem to apply to any survey, without distinction, in said reservation, whether made as public or military lands; for, says the court, “if this proviso be construed to comprehend the surveys made by the United States, it would amount to the *establishment of Ludlow's line, and would indirectly curtail the Virginia military reserve, which was obviously not the intention of the government*; that there was no reason to suppose that it was intended to *withdraw one part of the territory* from these claims, more than another.” For, continues the court, “*the course of legislation which has been pursued on this subject; the scrupulous regard which the government has shown to the conditions on which the cession of Virginia was made; the liberal and fair offers of the United States for adjusting the real extent of the reserve, forbid a construction which would indirectly abridge that reserve.*” Besides this, the court hold the following language in reference to the act of 1804, which provisionally designated Ludlow's line, to wit: “*This act shows, we think, very clearly, that Congress did not mean to assert a power to fix the western boundary of the military reserve. The deed of cession. and the act of acceptance, were considered as forming a contract respecting a territory the western line of which could not at the time be fixed with precision, and which was unavoidably described in terms requiring subsequent explanation and adjustment. This adjustment was to be made, not by one of the parties, but by both; and this act was an essay towards it. Congress makes a pro-*

position to Virginia, by which *the United States are to be bound, provided Virginia accepts it within two years. If it be not accepted within that time, the parties stand on their original rights, as if it never had been made.* This is a very fair and equitable proceeding on the part of the government, and is founded on the idea that *the rights of the parties are equal.* Had Virginia accepted this proposition, it would have become a contract, and Ludlow's line would have been established as the western boundary of the military reserve. The land in controversy lying west of that line would not have been liable to be surveyed to satisfy the plaintiff's warrant; but Virginia did not accept the proposition, and the rights of the parties remained as if it had never been made."—(See 9 Wheaton, 469, &c.)

And in pursuance of this decision, Congress, in May, 1824, passed an act authorizing the President to enter into negotiations in relation to this matter, which, as it contains but one section, I will here recite verbatim, to wit:

*"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the President of the United States shall be, and he is hereby, authorized to ascertain the number of acres, and, by appraisement or otherwise, the value thereof, exclusive of improvements, of all such lands lying between Ludlow's and Roberts's lines, in the State of Ohio, as may, agreeably to the principles of a decision of the Supreme Court of the United States, in the case of Doddridge's lessees against Thompson and Wright, be held by persons under Virginia military warrants, and on what terms the holders will relinquish the same to the United States; and that he report the facts at the commencement of the next session of Congress."*

Under this act negotiations were made with General McArthur, as the assignee of sundry claimants for Virginia military warrants located between said lines, to the amount of some fourteen thousand acres, by which he was allowed the value of the land without improvements—amounting, in the whole, to some 80,000 dollars, averaging about ——— dollars per acre. (See report of Mr. Vinton, from the Committee on Public Lands.)

Thus it will be seen that Congress regarded this decision of the Supreme Court of the United States as binding on the government, and all parties concerned, and proceeded to satisfy all such Virginia military claims as had been located between said lines, notwithstanding it was even then supposed that there would be no deficiency in said reservation, and notwithstanding a remonstrance had been got up and signed by the principal land locators against said claim, on that and other grounds, among whom was the present claimant, with a view to having the matter fully investigated, &c.

Thus it will be seen that this was not an *ex parte* question, neither before the court nor before Congress; but that the same was fully, deliberately, and ably investigated, as well by Congress as the court; and the results of both decisions were, that the Virginia claimants were entitled to recover; that their rights were primary, and paramount to all others; and, as this question had been thus

decided by the Supreme Court of the United States, and fully concurred in by Congress, and recognised as the correct exposition of the compact with Virginia and the rights of all parties concerned, it afforded and offered an *additional guarantee to the said Virginia claimants that their rights were to be fully sustained, and regarded as well by the courts as by Congress, and that the latter would faithfully and bona fide execute the trust reposed in it according to the terms of the said deed of cession, and decision of said court.*

Being impressed with this belief, and being a large claimant of these Virginia military bounty land warrants. and after waiting some years after it was fully ascertained that all of the good lands, as well as the second rate lands, were fully and wholly exhausted and appropriated, with the exception of the residue between the said lines of Ludlow and Roberts, and finding that Congress manifested a disposition to make no further or immediate appropriation to satisfy said claims in scrip, he made the location and survey before mentioned; not with a view to oust the tenants in possession under the general government, nor with a view to claim the value of the land in a state of nature, as in the cases before mentioned; this advantage he is willing to concede to the government, as will be seen by his memorial to the present Congress; but with a view to being fully and fairly compensated for said claims, including his trouble and expense, as it would inure to the benefit of government by his releasing and conveying his interest in the same to the United States, and thus quiet and perfect the titles of those claiming under it as public lands—thus giving to the government the advantage of a speculation to the amount of some four or five hundred thousand dollars, if estimated according to the principles and proceedings in the cases mentioned, notwithstanding the case of Wallace presents a much stronger claim in equity than the other cases, for the reasons before suggested, to wit: that at the time these locations of Doddridge and others were made, the good lands were not wholly exhausted, and in point of law the cases stand on equal ground; that is, if it be conceded that the decision of the Supreme Court is to stand as the law of the land, and that the terms of the said deed of cession are to be faithfully executed by Congress. But under any circumstances the claim of said Wallace presents a stronger claim in equity, if not in law; for the act of April 11th, 1818, before mentioned, would be more favorable to his said claim, as it designated Roberts's line north of the treaty line without any condition, and Ludlow's line south of said treaty line until *otherwise directed by law*. There was no law directing otherwise until the decision of the said Supreme Court, which did direct otherwise. It directed that Roberts's line was the true line according to the case agreed; and that Ludlow's line was no longer to be considered as forming any part of said boundary. To this decision Congress afterwards assented, and fully concurred in the principles there maintained. It therefore *became the law of the land*, and has never since been reversed or reconsidered; and is therefore still *the law of the land*, which puts an end to this *provisional line of 1818*, whereby said act has become obsolete and of no effect, and *this zigzag line* which



it designated wholly abolished, and Roberts's line, from the source of the one river to that of the other, fully established.

But it may be objected that this decision did not permanently establish Roberts's line; that it only settled the principles upon which it was to be ultimately established; that if the sources of the two rivers were either east or west of the points established by the commissioners under whom he acted, the line run by him would be equally as invalid as the line run by said Ludlow—as the commissioners on the part of Virginia did not assent to the line after it was run, but claimed to run another line still further west.

I grant all this. I admit that it was an agreed case; that it was admitted by consent of parties, to avoid the trouble of additional proof that Roberts's line was direct from the source of the one river to that of the other; and that it was on this admission, together with a certified copy of the line from the Commissioner of the General Land Office, that the Supreme Court predicated its decision. And I am willing further to admit that, from my own personal knowledge of the country, neither of said lines would form the true western boundary of said reservation, according to the principles of said decision; that the true source of neither river was fixed upon by either Ludlow or Roberts; but that Roberts's line came the nearest, and was perhaps sufficiently correct for all practical purposes. And I must further add, that it is a matter of astonishment that Roberts came as near as he did in fixing upon the headwaters of the Scioto, considering the time and the circumstances under which he run it. It was late in the fall of 1812, after the commencement of hostilities with the British and Indians. And it will be perceived, by adverting to the letter of Mr. Roberts, that for many miles after passing the Greenville treaty line they had to wade through ice and water sometimes waist deep; and that, after arriving at the headwaters or source agreed upon, the alarm of Indians was given, and that they hastily finished their work and made their escape, &c.

But, after admitting all this, it will not operate against said claim of Wallace, as it is now ascertained beyond a possibility of doubt that the true source of the Scioto is a considerable distance northwest of the point thus hastily fixed and agreed on by Roberts, and that the true source of the Little Miami is also west of the points of both Ludlow and Roberts, which would give to said reservation several thousand acres more than Roberts's said line. These facts are established by the testimony of men of the most unquestionable veracity, who live on, and in the neighborhood of the headwaters of the Scioto, as well as by several surveyors, who have surveyed and returned plats of said headwaters of the main branch, accompanied with the field-notes of the meanders of the same, called the Willow fork, from its source to its intersection with other branches, which proves to be the main branch of said river.

In addition to this, there is another plat and certificate of a survey made by the principal surveyor of said reservation, which also establishes the same point as the head, or source of said Willow fork, which also exhibits a direct line from said point, as the true



source of said river to the true source of the said Little Miami river; which no doubt exhibits the true western boundary of said reservation, according to the principles laid down by said court.

By adverting to plat E, which is sustained by the testimony of six respectable witnesses, it will be seen that there is an old beaver dam across said Willow fork, about one mile and a half north from Roberts's said point. This dam is about one hundred poles in length, through which said Willow fork now runs, occasioned by a breach since the settlement of the country. This dam, together with the natural flatness of the surrounding country, will account for the great difficulty of ascertaining the true source of the Scioto before the country was settled and improved. It will also account for the apparent discrepancy between the returns made by the surveyors of the public lands, and the surveys lately made by the said surveyor of the said reservation, and the said county surveyors.

This apparent discrepancy, although, when properly examined, it will be found that none exists, can be accounted for in another way, to wit:

It will be perceived, by adverting to the several diagrams of these lines and surveys, that, from the point fixed by said Roberts as the source of said river Scioto, a direct line is run of about two miles in an easterly direction. This line appears to have been run by James Heaton, of Butler county, Ohio, as one of the surveyors of public lands.

It is said that after said Heaton had found the stake or point fixed by said Roberts as the source of said river, he could find no stream or channel running on proceeding from it. He therefore run a direct line from said point to where a channel or stream was perceptible. This stream or channel has been since called Congress run, and connects with the said Willow fork about one hundred poles below the termination of said Heaton's straight line.

But, on examination of the plats of the townships thus returned to the General Land Office, in which the headwaters of the said Scioto have their rise, to wit: townships 5 and 6 in ranges 8 and 9, it will be found that they prove the existence of said Willow fork, from its headwaters until it is lost in the said beaver pond and swampy ground; and also the southern part of it, after emerging from said pond and swamp to its mouth or junction with the other branch, to which said Heaton run his said line from the stake of said Roberts, now called Congress run, or river, which was then supposed to be the main branch, or at least had to be so considered, as it was the nearest stream then to be found, to the point fixed by said Roberts at the source of said Scioto river; beyond which point to the north, he, the said Heaton, had no authority to go in dividing the public from the military lands in that quarter.

By adverting to the plat of township 5, range 8, it will be seen that a stream or branch is indicated as crossing the east line of said section in a southeasterly direction, which must have had its rise in said section, as this is the only place where any stream is noted as crossing any of its external lines. The stream here noted, corresponds precisely with the one established by the said surveys and

exhibits of said Wallace, called the Willow fork, which proves that said fork has its rise and source in said section 8, as claimed by said Wallace. And again: the headwaters of several other streams are also indicated on said plat, all apparently converging into said swamp or pond, answering to the other branches, which now empty into said Willow fork, as represented by the said plat and surveys of said Wallace. But again: a stream is indicated of a bolder character below said beaver dam and swampy grounds, as crossing the external east line of said township, in section 25, running southeasterly into said township 6, in range 9, and section 30, crossing the south line of said section 30 and passing into section 31, until it unites with the said other branch called Congress run, near the northwest corner of said section 31, which corresponds precisely with the southern part of said Willow fork and its junction with said Congress run, as represented and proved by said Wallace. Thus it will be seen that the surveys of the public lands prove conclusively that the headwaters or source of the main branch of the Scioto, now called the Willow fork, has its rise and origin in said section 8, township 5, and range 8, and that it unites with said Congress run in said section 31, township 6, and range 9, corresponding precisely with the said surveys and exhibits of said Wallace in every particular; for they show the beginning and end of said branch, and the swamps and marshes above and below said beaver dam; so that no stream could be indicated in said swamps, because there was none at the time; but since the country has become settled, and breaches made in said dam, and the fallen timber removed, and other obstructions to the natural flow of the water, it runs off and collects in its natural and proper channel, and thus forms the main branch of the Scioto; and thus it would seem that this question is at last settled, which appears to have been attended with almost as much difficulty and uncertainty as the discovery of the sources of the Nile.

But it may be objected that there was an act of Congress which expressly prohibited locations west of Ludlow's line, which is granted; but not that it was constitutional, if it was intended as a permanent act, which it was not; but only temporary, for the purpose of preventing locations west of said line until it was ascertained that the whole territory reserved would be necessary to satisfy said Virginia military claims; and the very moment that was ascertained, the act was of no further force or effect; the claimants standing in the same legal position as other claimants stood at the time surveys were prohibited by the Continental Congress in this reservation, until it was first ascertained whether or not there was a sufficient quantity of good land to satisfy said claims in the reservation on the southeast side of the Ohio, declaring all such surveys invalid until Congress should be informed of such deficiency; yet, as soon as the deficiency was ascertained by the agents of said claimants, and before Congress had been legally informed of the fact, and while this resolution was in full force and effect, these claimants commenced making locations on the northwest side of said river in this reservation, in which they were sustained by a

subsequent Congress under the new constitution, which ratified and confirmed said locations and surveys.

But this act, or rather provision, which was made soon after the said decision of the Supreme Court, in the case of Doddridge, prohibiting locations west of said Ludlow's line, has expired by its own limitation, and become obsolete and of no effect, and consequently it seems that there would be no legal impediment in the way to the granting of a patent on this survey of said Wallace; for the clause which was also declared patents void which might be obtained on such surveys, has also in like manner, become obsolete. This clause did not declare the surveys void, but the patents only. It was only intended to prevent the vesting of the legal title, that the claimants could not sustain actions of ejectment and oust the tenants in possession, and not with a view to affect the equitable title in any such survey. It therefore appears to me that as these provisions have become obsolete, the legality of said location is thereby revived and resuscitated, which places said Wallace in a more favorable position than said Doddridge, or the claimants before mentioned, who made locations before the deficiency was legally ascertained, on the south-east side of the Ohio; for his location was only suspended, at most, under the operation of that proviso, and would be revived, legalized, and confirmed by the said proviso becoming obsolete or invalid; and Wallace would consequently be restored and remitted to all his original rights, both in law and equity. But, even if I should be mistaken on this point, I think I cannot be mistaken in the opinion that Wallace's said claim is superior to those of the tenants in possession, for they could not be considered even in the light of innocent purchasers, as most of the purchases were made after it was well known and established that the lands were clearly within said reservation; and, besides, that there was no law of Congress authorizing the sale of any lands as public lands within said reservation, at any of the land offices, or in any way or manner whatsoever, but, on the contrary, the ordinance of Congress of 1785, and the subsequent acts of Congress before referred to, expressly prohibited any such sale until these Virginia bounty land claims should be fully satisfied; and as these were public acts, all persons and purchasers were bound to take notice of them; and if any were disposed to violate these laws by making purchases contrary to their provisions, they did it in their own wrong and at their own risk, and upon their own responsibility, and could not therefore plead innocence by reason of their not having notice of this adverse and paramount title of the Virginia military claimants. Besides, it will be perceived, by the exhibit of the Commissioner of the General Land Office, that many sales took place even after the said decision of the Supreme Court. This decision would be, also, notice to all the world after it was made; consequently, the claimants under the government could not be favored either in law or equity, and could not come into court with as clean hands as said Wallace.

It is, therefore, evident that the titles of said claimants under the government are wholly invalid, both in law and equity, and could not be sustained in an action of ejectment, even against a party who

might obtain a tortuous possession without color of title. But as they have the possession, however illegally and tortiously, it may have been obtained, yet Wallace could not maintain his action of ejectment against them until his survey be carried into grant; for the legal title is yet in the United States as trustee, and the equitable title in said Wallace to that part of said reservation covered by his survey. But if he had possession, or if he could get possession of any part of it, then he could not be ousted in ejectment by these claimants under the government; for their patents could not be received as evidence of their legal title in consequence of their having been illegally issued; for, besides the positive illegality of the whole proceeding, there was no act of Congress authorizing the sale or patenting of these lands as public property, at any of the land offices, as before intimated; and for this reason alone the patents would be void, and inadmissible in evidence, even in case the lands had belonged to Congress; and so the same Supreme Court has already decided in the case of *Matthews vs. Zanes et. al.* —(7 Wheat., 164.)

In this case the court decided that the power of the officers of the different land districts *to sell* was *expressly limited by law to the lands within their respective districts*, and that any entry made at any of the land offices *out of its district is illegal and void*.

This was a case where the land in controversy originally belonged to the Marietta district; but afterwards, by the creation of new districts, it became attached to the Zanesville district; but, before the officers were appointed, and qualified to execute the law and make sales in the Zanesville district, in which the land in controversy then lay, the plaintiff entered the land at the Marietta land office, and the defendant, after the opening of the office at Zanesville, enters the same land at the Zanesville land office; and, notwithstanding the plaintiff's entry was the oldest, and many equitable circumstances alleged in his favor, the court decided that it was invalid in consequence of its not being entered at the proper district, and sustained the defendant's title to this subsequent entry. The same doctrine was intimated by the court in the case, before referred to, of *Doddridge* and others, a paragraph of which I will here recite, to wit: "In May, 1800, Congress passed an act providing further for the sales of these public lands, and establishing for that purpose four land offices. The places at which these offices shall be fixed are designated in the act, and the district of country attached to each is described. *Neither of these districts comprehends any lands between the Scioto and Little Miami. The surveyor general was not authorized to survey any lands within the military reserve; nor was the sale of such lands authorized at any of the land offices.*"

From these decisions, it is clearly established that these sales of land, within said military reservation, as public land, at any of the land offices in the different districts, are wholly null and void; not only on account of their having no original rights either in law or equity, but on account of the lands not lying within any of the land districts of the United States, being wholly within the said military districts.



Consequently, before these claimants can be confirmed in their titles they must derive it from the proper source, which can now only be obtained by and through said Wallace, he having appropriated in one survey the whole residue of the lands between said lines of Ludlow and Roberts, as before mentioned, which he is willing to relinquish to the government on the terms proposed in his said memorial, and in conformity with the report of the Hon. Mr. Mason, from the Committee on Public Lands, on the 25th day of May, 1840; which, according to that report and bill accompanying the same, amounts to the sum of one hundred and three thousand three hundred and thirty two dollars, without interest. This is the sum *only* which the government has actually received in money for these lands. It will, therefore, not only have the advantage of the use of this money for some twenty or thirty years without interest, but also be exempt from paying for the lands thus sold according to their value in a state of nature, or without improvements, as in the cases before mentioned; which, estimated according to the principle there established, to which said Wallace has at least an equal right, would amount to some \$500,000, which he is willing to waive for the present, in case his proposition is agreed to. This would put an end to this vexed question forever, as Virginia could not complain of injustice, as the points were agreed on by her own commissioners as the headwaters of the said rivers, and especially as she has never manifested the least disposition to controvert the correctness of the said decision of the Supreme Court, but has acquiesced in the same without the least objection.

And here I would be willing to rest the claim of said Wallace as being conclusively established, but for a prejudice which has lately arisen against these revolutionary claims, and even against the claim of Virginia to the territory prior to her deed of cession.

I will not attempt to answer arguments or dictums which have been advanced against said claim of Virginia, for that would be too tedious as well as too unprofitable a task, especially as this argument is already spun out to a greater length than I had anticipated or could have wished. I must, therefore, content myself with suggesting the principal facts and circumstances in relation to the right and title of Virginia to said territory.

Her original right depended upon certain charters from James I. The first bore date on the 10th day of April, 1606, and embraced the territory between latitudes 34 and 41, bounded by the seacoast of the Atlantic on the east, and extending westwardly fifty miles only. The second was dated on the 23d of May, 1609. This charter was in favor of a company, and was bounded on the east by the seacoast of the Atlantic for two hundred miles north, as well as south of Point or Cape Comfort, being four hundred miles in the whole, and running west and northwest to the Pacific, or, in the words of the charter, from sea to sea, and all the islands within one hundred miles along the coasts of both seas. The third and last charter bore date the 12th of March, 1612, which made no other alteration in the bounds of Virginia, as described in the second, than increasing its jurisdiction and extent to islands from one hundred miles to three hundred leagues of the seacoasts. These



charters were afterwards vacated by a writ of *quo warranto*, by reason of which the territory reverted to the crown. And, on the 15th day of July, 1624, a commission was issued by the King, for the government of Virginia, which re-established the boundary mentioned in the said second charter, and Virginia constituted a regal province or colony according to the bounds prescribed in said second charter, and so continued to the commencement of the revolutionary war, with the exception of certain grants to Lord Baltimore and William Penn on the north, and to the Carolina proprietors on the south, which would still leave to Virginia, within her chartered limits, at the commencement and close of the Revolution, her own State as it was then, including the present State of Kentucky, and all the territory northwest of the river Ohio.

It will be remembered that each and every of the united colonies, in and prior to the Revolution, and after its successful termination, claimed their respective territories under charters from the crown, and the most of them retained the general features of their charters as the basis of their constitutions, and some wholly adopted their charters without any material alteration; and, on examination of these charters, it will be found that Virginia had a more clear and unquestionable right to the territory described in her charter than any of the others. For, in addition to these charters, Virginia defined her geographical limits and territorial rights by a written constitution and declaration of rights at the commencement of the Revolution, as early as May, 1776; by which said constitution, after ratifying and confirming to Maryland, Pennsylvania, North and South Carolina, such parts of the original territory as had been previously granted to them by the crown, as before mentioned, declared and provided that "the western and northwestern extent of Virginia should in all other respects stand as fixed by the charter of James I., in the year 1609, and by the public treaty of peace between the courts of Great Britain and France in the year 1763," &c.

It was under this constitution that Virginia, in common with the other colonies, under their constitutions or chartered rights, fought, bled, and conquered. Each colony, therefore, held their rights to territory, not only by charter but by conquest, but more especially the colony of Virginia; for she, with her own troops, at her own expense, upon her own State's establishment, in addition to furnishing more troops than any other of the united colonies upon the continental establishments, with her own arms conquered and took military possession of this country, under the command of General Clarke. He reduced and captured the posts of Kaskaskia and St. Vincents, in the present States of Illinois and Indiana, and other posts of minor importance then in the possession of the British; from which points they had previously rallied their savage allies to commit depredations on the northwestern and southwestern frontiers. The conquest of this territory, which Virginia held to the close of the war, was the principal, and perhaps the only cause, of saving the northwestern territory to the United States. This is not mere fancy, or idle assertion, without foundation; for history, and

the best men of the olden time establish the fact. Judge Marshall, in his Life of Washington, in speaking of the conquest of this country under General George Rogers Clarke, says, "that it was very important in its consequences; that it entirely broke the plan which threatened to pour destruction, the ensuing season, on the whole country west of the Alleghany mountains; that it detached from the British interests many of those numerous tribes of Indians south of the waters immediately connected with the great lakes, and that it had, most probably, a material influence in fixing the western boundary of the United States."

The plan of the enemy here mentioned by the historian, is fully developed in the official report of General Clarke to Thomas Jefferson, then governor of Virginia, of his expedition from Kaskaskia against said post St. Vincents, as it was then called, but now Vincennes, then in the possession of the British, under the command of Colonel Hamilton, the lieutenant governor of Canada. This letter is dated at Kaskaskia, April 29, 1779, being after his return to that post—after the reduction of Vincennes—in which he mentions "that governor Hamilton had possessed himself of that post on the 15th of December; that he had repaired the fortifications for a repository, and in the spring meant to attack him at that place, which he made no doubt of carrying—where he was to be joined by two hundred Indians from Michilimackinac, and five hundred Cherokees and Chickasaws, and other nations. With this body he was to penetrate up the Ohio to Fort Pitt, sweeping Kentucky in his way; having light brass cannon for the purpose. Joined on the way by all the Indians that could be got to him, he made no doubt that he could force all west Augusta. This expedition was ordered by the commander-in-chief of Canada. Destruction seemed to hover over us from every quarter," &c.

But General Clarke having received information from a Spanish merchant, Francis Vigo, (who had been taken prisoner by a party of Hamilton's Indians, and escaped from said post,) that said Hamilton had weakened his force by sending his Indians against the frontier settlements, resolved to attack him before he could collect his forces in the spring.

After mentioning the manner of fitting up this expedition to attack Hamilton, General Clarke says, "that he commenced his march with 130 men on the 7th of February, 1779; that he was 16 days on the route; that when within three leagues of the enemy, it took him five days to cross the drowned lands of the Wabash, frequently having to wade up to their arm-pits in the water and ice; that on the 23d of same month got on dry land in sight of the enemy, and at 7 o'clock made the attack. The town immediately surrendered; but the fort held out until the next evening, after a continual fire on both sides for 18 hours, when it surrendered with all its stores and men," &c.

The reduction of this post put Virginia in the possession of the whole northwestern territory; which she held to the close of the war, with the exception of Detroit, against which General Clarke

had also meditated an expedition, but failed for want of sufficient force, and other means.

In addition to these things, and the authority of Judge Marshall in relation to this conquest of Virginia under General Clarke having a favorable influence in fixing our northwestern boundary, I beg leave to introduce another authority on the same point: it will be found in the address of the Hon. Jacob Burnett, of Ohio, to the Hon. John Q. Adams, in November, 1843, on the ceremony of laying the corner-stone of the astronomical observatory at Mount Adams, near Cincinnati. After adverting to the uniform friendship of Mr. Adams, and his advocacy of western interests, the judge says, that "in this he treads in the steps of his venerated father, to whose firmness we are indebted for the beautiful country we here occupy; that in settling the preliminary articles of peace, at Paris, in the fall of 1782, the British commissioners demanded the Ohio river as their southern boundary. The French court favored the claim, and Dr. Franklin, under the influence of the count De Vergennes, was disposed to acquiesce; but Mr. Adams protested against it—declared it inadmissible—and *claimed the lakes as our boundary*. This he did *on the ground that General G. R. Clarke had conquered the country north of the Ohio, and was then in the actual military occupation of it*. Mr. Jay very cordially and zealously united with Mr. Adams; and after a warm, passionate, and protracted discussion, in which the dignity of the British commissioners was very much lowered, they reluctantly gave up the point, with a bad grace, and the lakes became our boundary."

This information appears to have been derived from some of the American negotiators while Judge Burnett was a member of the legislature of that same northwestern territory in 1799, which became the subject-matter of a communication and address of that body, which was adopted by them and presented to that distinguished statesman, the elder Adams, then the President of the United States.

It is therefore evident, that, had it not been for this conquest of the Virginia troops, our commissioners could never have succeeded in procuring the boundary they did; for, had it not been for this bold, grand, and heroic movement of General Clarke in the capture of Governor Hamilton, and the consequent reduction of the country northwest of the Ohio, instead of its being in the possession of Virginia or of the United Colonies at the time of the treaty, it would have been in the possession of the British, together with the whole country, or a great portion of it, on the southeast side of the Ohio to the Alleghany mountains, as mentioned by Judge Marshall, including Kentucky and western Virginia; for this was the plan of the intended expedition of said Hamilton, which was only defeated by the arms of Virginia under General Clarke as before remarked.

Would it not, then, be unjust to curtail the limits of any of the reservations in this territory, mentioned in said deed of cession, for the use and benefit of any of the Virginia troops, whether upon the State or continental establishment? and the more especially so, as millions upon millions of acres within this ceded territory

have been already sold for the use and benefit of the general government, and yet leaving millions upon millions unsold and unappropriated. Would it not be more in accordance with the principles of universal justice, and the terms and provision of said compact and deed of cession, instead of curtailing any of said reservations to the prejudice of these claimants, that additional land be provided for them in the territory their valor won, in case the reservations should prove insufficient to satisfy their just claims upon their country? Between individuals no man could hesitate a moment. Why, then, should the government? Ought not the government to be regulated by the same principles of eternal justice, honor, honesty, and integrity, as individuals? and especially when the claims of the heroes of the Revolution who gained the country are at stake. I am aware, sir, (and it is deeply to be regretted,) that executive officers are not regulated by this rule of action; they establish certain arbitrary rules, from which they will not depart, apparently for the purpose of defeating every just claim, for fear that an unjust one might be admitted; and every case that does not come within this arbitrary rule is ruled out of the departments, no matter however just it may be. But not so with Congress. Every claim stands upon its own peculiar merits, whether it depends upon a mixed proposition of law and equity, or a single proposition of either the one or the other.

To the former class this case of Wallace belongs; for it is founded upon both law and equity; at least it so appears to me, and that the law bears me out in this opinion. But, to illustrate it further, I will suppose a case which would be in point. Suppose A should grant or devise to B a large estate, reserving out of the same a particular part to the use and benefit of C, or so much thereof as might become necessary to satisfy a just and legal claim due and owing to C; and at the same granting or devising the residue, if any, to B, in fee: would B, the trustee, have a right, either in law or equity, to appropriate any part—much less the best part—to his own use, before satisfying this just and primary claim of C, whether the estate was or was not sufficient to satisfy said claim, but more especially if it was not? The law answers this question in the negative: that the trustee, or residuary grantee or devisee, would have no right to appropriate to his own use any part of said trust estate, in prejudice to the right of *cestui que use*, before he had first satisfied this primary claim upon the estate, whether the estate was or was not sufficient, or more than sufficient, to satisfy said claim; that if it was insufficient, then the case would be considered among individuals a gross outrage, and act of fraud. But supposing that it was more than sufficient; still this primary claim must be first satisfied before the residuary grantee or devisee could appropriate any part to his own use, especially if the primary claimant had a right to the choice part of the reservation or trust estate. If this be the law—and that it is, there can be no doubt—it would then follow, as a necessary consequence, that the United States, being the grantee of Virginia, in trust for the use and benefit of the said officers and soldiers of her line, of this reservation, has no right to



appropriate any part thereof to its own use, or curtail the limits of said reservation to the prejudice of said claimants, or those deriving title under them, until, in the language of the said ordinance and deed of cession, a sufficient quantity of good land be first laid off for said troops to satisfy their said claims; and that, in the language of said court, she is bound by her high duties to see that the trust is faithfully executed.

It is therefore confidently anticipated that the committee will at once see the justice as well as legality of said claim, and that a favorable report will be made, at as early a day as practicable, upon the principles and terms proposed; especially as those terms are evidently unusually liberal and advantageous to the government—nothing being insisted on but the refunding of the money actually received on the sales of the lands, to which the government had no right or title, except as trustees for the use and benefit of said Virginia troops, as before maintained.

The diagram following represents the whole of said reservation, together with all the lines referred to in the foregoing argument, to wit: Ludlow's, Roberts's, Anderson's, the Greenville treaty line, and the line claimed by the Virginia commissioners.

D. F. HEATON, *Attorney-at-law.*

*Explanation of the following diagram, and of the lines referred to in the foregoing exposition.*

1. Ludlow's line—bears N.  $20^{\circ}$  W., 40 miles.
2. Roberts's line—bears N.  $24^{\circ} 30'$ ,  $53\frac{3}{4}$  miles.
3. Anderson's line—bears N.  $24^{\circ} 40'$ , 60 miles.
4. Ideal line, as claimed by the Virginia commissioners in 1812.
5. Greenville treaty line—bears N. 78 E.
6. Heaton's line—bears N. 75 E., 2 miles.
7. The small parallelograms between the said lines of Ludlow and Roberts represent the survey of McArthur and others, paid for by United States.
8. The whole residue between said lines of Ludlow and Roberts represents Wallace's survey.



## DIAGRAM.







